



# TOWN OF KITTERY, MAINE

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03904

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August 15, 2016

Kittery Town Council  
Requested by Chairperson Gary Beers  
Special Meeting Agenda

Shapleigh School  
Gymnasium

6:00 p.m.

1. CALL TO ORDER
2. INTRODUCTORY
3. PLEDGE OF ALLEGIANCE
4. ROLL CALL
5. PUBLIC HEARING

(080216-1) The Kittery Town Council moves to hold a public hearing on the 2015 Sewer Main Extension Project Assessment Plan subject matter of the assessments.

## 6. OLD BUSINESS

(080116-1) The Town of Kittery hereby ordains revisions to Town Code Title 13, Public Services, as follows: Chapter 1, Article I. In General; Article IV. Main Extensions; Article VI. New Sewer Service Connection Fees; and, Chapter 13.2. Sewer Service Decision Appeals, as presented. [Postponed to this date from August 08, 2016] **Information is located in your packet.**

## 7. DISCUSSION

a. Discussion by members of the public (only on item 8 below and three minutes per person)

b. Chairperson's response to public comments

## 8. NEW BUSINESS

a. (080216-3) The Kittery Town Council moves, pursuant to Town Code Title 13, Article IV, to adopt by resolution the 2015 Sewer Main Extension Project Assessment Plan to be filed with the town clerk; and, filed with and certified to the tax collector for collection. **Information is located in your packet**

b. (080216-4) The Kittery Town Council endorses the Town Manager's Mortgage, Promissory Note & Payment Plan; Appeals; and, the Town Clerk Hearing Order of Notice model documents as the basis for administering the 2015 Project Assessment Plan. **Information is located in your packet**

c. (080216-5) The Kittery Town Council moves to schedule a hearing date on September 19, 2016 to be published in the Town Clerk Hearing Order of Notice for the adopted 2015 Sewer Main Extension Project Assessment Plan and delivered to assessed property owners pursuant to Town Code Title 13, Article IV. **Information is located in your packet**

## 9. ADJOURNMENT

Posted: 8/11/16

## REPORT to the KITTELY TOWN COUNCIL – TITLE 13 ORDINANCE REVISION

**RESPONSIBLE INDIVIDUALS:** Beers, Denault

**Date:** 08-15-16

**SUBJECT:** Town Code Title 13 Ordinance Revision Requests - Update

### **BACKGROUND:**

- Prior report 08-08-16

### **CURRENT SITUATION:**

- Public hearing held on 08-08-16. Moved by Councilor Denault; seconded by Beers:
  - The Town of Kittery hereby ordains revisions to Town Code Title 13, Public Services, as follows:  
Chapter 1, article I. In General; Article IV. Main Extensions; Article VI. New Sewer Service Connection Fees; and, Chapter 13.2. Sewer Service Decision Appeals, as presented.
- Public hearing comments and discussion, and other input, raised issues suggesting amendment to the proposed version (*encl 3*)

- Unresolved questions include:

**Page 6 – Lines 231-237**

**13.1.6.5 Sewer Impact Fee.**

**13.1.6.5.1 Time Payable.**

Sewer impact fees, payable by the property owner pursuant to this section, must be paid prior to the connection of any sewer line to the municipal sewage collection system; or upon the issuance of any plumbing permit for additional plumbing fixtures; or change in use of any property already connected to the municipal sewage collection system.

Councilor Dennett raises several issues on this topic. A difficulty is that the references in the present Title 13 refer to an obsolete State Plumbing Code and the new one is 498 pages. The issue should be researched and examined in detail which would take some time. Suggest it be tasked to the Town Manager to provide a recommendation for ordainment at earliest convenience. This delay would have no appreciable effect on the remainder of the proposed revisions, nor an immediate impact as these sections apply to future development/addition.

Pending that revision, retain 13.1.6.5.3 *“For any category of use or change in use not specifically set forth above, the enforcing officer determines the total number of unit charges based upon a per unit load of three hundred (300) gallons per day.”*

- Enactment findings of fact, basis of law, and legislative intent delineated and appear to satisfy all statutory obligations (*encl 1*).
- “Strikeout/underscore” draft (*encl 2*) provided for consideration.
- Drafts are in due form and proper format.

**RECOMMENDATION:** Ordainment consideration.

### **ENCLOSURES**

1. Enactment Language
2. Ordinance Draft Proposal w/Index
3. Amendment Proposals

## REPORT to the KITTERY TOWN COUNCIL – TITLE 13 ORDINANCE REVISION

### **ENCLOSURE 1: Title 13 Ordinance Revision Enactment - MOTIONED 08-08-16**

**AN ORDINANCE** relating to the municipality's authority to establish land use ordinance in the Town of the Kittery, as more particularly set forth herein.

**WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers that authorize the town, under certain circumstances, to provide for the public health, safety, morals, and welfare and does not intend for this Ordinance to conflict with any existing state or federal laws; and

**WHEREAS**, the Council is enacting this Ordinance in order to correctly implement its obligations and authority pursuant to 30-A MRS Chapter 161 Sewers and Drains, §3442, Expense of construction for clarifying various provisions related to sewer main extension projects; and

**WHEREAS**, the Council wishes to add detail and clarity to property owner rights of appeal and arbitration pursuant to 30-A MRS Chapter 161 Sewers and Drains §3443, Arbitration of assessment and 14 MRS Chapter 706, Uniform Arbitration Act; and

**WHEREAS**, the Council wishes to establish a more uniform and consistent basis for assessment plan calculation hereafter; express obligations for payment of future connection fees more definitively; and provide more flexible program administration features; and

**WHEREAS**, the Council intends, through the adoption of this Ordinance amendment, to clarify language implementing various goals in Section F. Water and Sewer Service of the Kittery Comprehensive Plan; reduce adverse environmental impacts in an area of the Town; support the opportunity for growth in Business Park and Commercial zones; and, not generate a cause for increase in sewer usage rates or property taxes.

**NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER §2.14, **THE TOWN OF KITTERY HEREBY ORDAINS REVISIONS TO TOWN CODE TITLE 13, PUBLIC SERVICES, AS FOLLOWS:**

**CHAPTER 1, ARTICLE I. IN GENERAL; ARTICLE IV. MAIN EXTENSIONS; ARTICLE VI. NEW SEWER SERVICE CONNECTION FEES; AND, CHAPTER 13.2. SEWER SERVICE DECISION APPEALS, AS [ PRESENTED / AMENDED ].**

**Approved as to form:** \_\_\_\_\_ {NAME}, Town Attorney

**INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor

\_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and passed by a vote of \_\_\_\_\_.

**THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery, Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

**Attest:** {NAME}, \_\_\_\_\_ Town Clerk



ENCLOSURE 2

TOWN CODE TITLE 13 – INDEX – PROPOSED AMENDMENTS – 08-08-16

**Chapter 13.1 SEWER SERVICE SYSTEM**

**Article I. In General**

- 13.1.1.1..... Definitions and Abbreviations.
- 13.1.1.1.1..... Terms Defined.
- 13.1.1.1.2..... Abbreviations.
- 13.1.1.2..... Penalty—Violator's Liability—Additional Remedies.
- 13.1.1.3..... Authority to Enter Properties to Make Inspections, etc.—Limited Authority of Inquiry.
- 13.1.1.4..... Liability for Injuries, Damages Resulting from Inspections, etc.
- 13.1.1.5..... Authority to Enter Easement for Inspection, etc.—Terms of Easement Govern.
- 13.1.1.6..... Maintenance Responsibility of Sewer Department.
- 13.1.1.7..... Rates and Charges.
- 13.1.1.8..... Basis for Decisions of Superintendent.
- 13.1.1.9..... Damaging, Tampering with Equipment, etc., Prohibited.
- 13.1.1.10..... Liability for Damage Caused by Excavation Work.
- 13.1.1.11..... Installation of Toilet Facilities and Connection to Public Sewer Required.

**Article II. Dangerous and Harmful Wastes**

- 13.1.2.1..... Effect on Special Agreements for Discharge.
- 13.1.2.2..... Tests and Analyses.
- 13.1.2.3..... Discharge of Unpolluted Drainage into Sanitary Sewer.
- 13.1.2.4..... Required Discharge of Unpolluted Drainage.
- 13.1.2.5..... Discharge of Specific Waters, Wastes into Public Sewers Prohibited.
- 13.1.2.6..... Superintendent's Authority Regarding Acceptance of Harmful Wastes.
- 13.1.2.7..... Interceptors Required When—Type, Location.
- 13.1.2.8..... Maintenance of Treatment, Flow-equalizing Facilities—Cost.
- 13.1.2.9..... Manholes.
- 13.1.2.10..... Specific Harmful Discharges Enumerated.

**Article III. Building Sewers and Connections**

- 13.1.3.1..... Permit Required.
- 13.1.3.2..... Permit Classes—Application—Fee.
- 13.1.3.3..... Technical Codes, Specifications to Govern Building Sewer Installations.
- 13.1.3.4..... Technical Specifications.
- 13.1.3.4.1..... Code Specifications to Govern Connections.
- 13.1.3.4.2..... Deviations from Standards.
- 13.1.3.4..... Tightness Required.
- 13.1.3.5..... Costs of Installation—Connection—Owner's liability.
- 13.1.3.6..... Separate Sewer for Each Building—Exception.
- 13.1.3.7..... Use of Old Sewers with New Buildings.
- 13.1.3.8..... Elevation of Building Sewer.
- 13.1.3.9..... Excavations for Building Sewer Installation.
- 13.1.3.10..... Inspection Prior to Connection—Superintendent to Supervise Connection.
- 13.1.3.11..... Specific Connections to be Approved.

**Article IV. Main Extensions**

- 13.1.4.1..... Council's Authority to Make Changes, Extensions.
- 13.1.4.2..... Extensions Generally.
- 13.1.4.2.1..... Petitions for Extensions.
- 13.1.4.2.2..... Authority to Make Assessments for Costs of Extensions.
- 13.1.4.2.3..... Construction by Property Owner, Builder or Developer.
- 13.1.4.3..... Assessment.
- 13.1.4.3.1..... Determination of Benefits.
- 13.1.4.3.2..... Definitions
- 13.1.4.3.23..... Limitation on Assessment—Formula for Determining Cost.
- 13.1.4.3.34..... Responsibility for Sewer Lines.
- 13.1.4.3.45..... Record of Location of Sewer Line—Notification of Owner.
- 13.1.4.3.56..... Farm and Open Space ILand Exempt from Assessment.

ENCLOSURE 2

TOWN CODE TITLE 13 – INDEX – PROPOSED AMENDMENTS – 08-08-16

- ~~13.1.4.3.6~~.....~~Special Sewer Entrance Permit Fees.~~
- ~~13.1.4.4~~.....~~Collection of Assessments and Charges.~~
- ~~13.1.4.5~~.....~~Appeal of Assessment.~~
- ~~13.1.4.6~~.....~~Special Appeals.~~
- ~~13.1.4.6.1~~.....~~Definitions~~
- ~~13.1.4.6.2~~.....~~Right to Appeal.~~
- ~~13.1.4.6.3~~.....~~Initiating an Appeal.~~
- ~~13.1.4.6.3~~.....~~Hearing the Appeal.~~
- ~~13.1.4.7~~.....~~Materials.~~

**Article V. Private Sewage Disposal**

- 13.1.5.1..... Connection to Private System Required.
- 13.1.5.2..... Permit Required to Construct System—Application—Permit and Inspection Fees.
- 13.1.5.3..... Effective Date of Permit—Inspections of Construction.
- 13.1.5.4..... Operation and Maintenance of Facilities by Owner.
- 13.1.5.5..... Effect on Additional Requirements of Health Officer.
- 13.1.5.6..... Connection to Public Sewer Required—Cleaning and Filling of Private System.
- 13.1.5.7..... Contents from Private Sewage Treatment Facilities.
- 13.1.5.7.1..... Generally.
- 13.1.5.7.2..... Rates for Discharge.
- 13.1.5.7.3..... Penalties for Violation.

~~Chapter 13.2~~ ~~SEWER IMPACT FEE~~ **Article VI. New Sewer Service Connection Fees**

- ~~13.1.6~~.....~~Requirement~~
- ~~13.1.6.1~~.....~~Benefited and Assessed Properties.~~
- ~~13.1.6.2~~.....~~Changes to Benefited and Assessed Properties – Impact Fee.~~
- ~~13.1.6.3~~.....~~New Main Entrance Connection.~~
- ~~13.1.6.4~~.....~~Changes to Unassessed Properties – Impact Fee.~~
- ~~13.2.11.6.5~~.....~~Sewer Impact Fee.~~
- ~~13.2.11.6.5.1~~.....~~Time Payable.~~
- ~~13.2.11.6.5.2~~.....~~Amount Determined.~~
- ~~13.2.11.6.5.3~~.....~~Categories of Use and Unit Charge.~~
- ~~13.2.11.6.5.4~~.....~~Proportional Factors.~~
- ~~13.2.11.6.5.5~~.....~~Multiple Category Factors.~~
- ~~13.2.11.6.5.6~~.....~~Fee Determination and Appeal~~
- ~~13.1.6.6~~.....~~Special Sewer Entrance Fee.~~
- ~~13.2.2~~.....~~Sewer Impact Fee Fund.~~
- ~~13.2.3~~.....~~Existing Structures and Uses Exempted.~~
- ~~13.2.41.6.7~~.....~~Off-premises Construction Costs.~~
- ~~13.2.51.6.8~~.....~~Municipal Contracts or Agreements Exempted and Town Property.~~
- ~~13.2.61.6.9~~.....~~Enforcement.~~

**Article VII Special Entrance and Impact Fee Fund Accounting**

- ~~13.1.7~~.....~~Special Entrance and Impact Fee Fund.~~
- ~~13.2.7~~.....~~Violation—Penalty.~~ **Chapter 13.2 SEWER SERVICE DECISION APPEALS**
- ~~13.2.1~~.....~~Arbitration Appeal of Assessment.~~
- ~~13.2.2~~.....~~Unbuildable Parcel Appeals.~~
- ~~13.2.2.1~~.....~~Definitions~~
- ~~13.2.2.2~~.....~~Right to Unbuildable Parcel Appeal.~~
- ~~13.2.2.3~~.....~~Initiating an Unbuildable Parcel Appeal.~~
- ~~13.2.3~~.....~~Sewer Service Administrative Decision Appeals.~~

**KITTERY TOWN CODE TITLE 13, PUBLIC SERVICES**

**Article I. In General**

**13.1.1.2 Penalty—Violator’s Liability—Additional Remedies.**

A. Any person found to be violating any of the provisions of this chapter except ~~§~~Section 13.04.0901.1.9 is to be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender must, within the period of time stated in such notice, permanently cease all violations. A person who violates any provision of this Chapter is subject to penalties set forth in Town Code Title 1, Chapter 1.3, Enforcement, Penalty, Nuisance and Fees.

**13.1.1.7 Rates and Charges.**

B. ~~Each sewer charges levied pursuant to this chapter is made a lien on the premises and any balance outstanding on December 31st of any year not paid by July 1st of the following year is are~~ to be certified to the ~~T~~reasurer of the Town who is to place the same on the real property tax bill for that year with interest and penalties allowed by law, and ~~beare~~ collected as other Town taxes are collected.

F. Sewer user rate charges in accordance with this section will begin ninety (90) days after notification by Town of the availability of the public sewer to serve the premises and remain in force whether or not the premises are occupied or connected to the system.

**13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.**

~~A. Owners of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes structures with use~~ requiring the disposal of sewage situated within the Town and abutting on any street, alley or right-of-way in with public sewer located within one hundred (100) feet of the property line as measured along any public way which there is located a public sanitary sewer of the Town, are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly with to the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, ~~provided that said public sewer is within one hundred (100) feet of the property line as measured along any public way.~~ Pursuant to Town Code Title 16, Chapter 8, Article VII, Sewage Disposal, connection to public sewer is required for a commercial or industrial development or a residential subdivision, where public sewer, within an abutting public way, is within one thousand (1,000) feet of the property line as measured along said public way.

B. If an owner can demonstrate to the Town Manager diligent effort in arranging the connection, but is unable to meet the 90-day connection deadline due to force majeure circumstances, the Town Manager may grant an extension and waive the penalties of Town Code Title 1, Chapter 1.3, Enforcement, Penalty, Nuisance and Fees.

C. When gravity flow cannot be obtained from the building or the property, the connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish.

D. Owners of properties with a septic tank and leach field system installed within ten (10) years of any main extension project completion date may request deferral of connection until the system has reached the ten-years after installation anniversary.

**Article IV. Main Extensions****13.1.4.3 Assessment.****13.1.4.3.1 Determination of Benefits.**

When the sewer line construction has been completed, the municipal officers shall determine what lots or parcels of land, with or without structures thereon, are benefited by said sewer line; and, estimate and assess upon said lots or parcels of land and against the record owner or owners thereof or against a person, firm or corporation against whom the taxes thereon are assessed, a sum not exceeding the benefit the municipal officers may deem just fair and equitable towards defraying the expenses of said sewer construction together with any sewage disposal units and appurtenances that may be necessary for the proper operation of said sewer line.

**13.1.4.3.2 Definitions.**

For the purposes of this Article, the following definitions apply:

**Benefited Parcel:** A property which has gained direct access to a sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable or not.

**Assessed Parcel:** A benefited property included in an adopted Assessment Plan obliging payment of an Assessment Fee.

**Unassessed Parcel:** Those parcels of abutting property that were not benefitted or assessed when sewer main extension assessments were made; and, those parcels that were thereafter found not benefited by such sewers and therefore not subject to such assessments.

**Dwelling Unit:** A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred fifty (650) square feet of habitable floor space and includes any subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).

**Unit-of-Occupancy:** The category of property use which carries the unit charge as found in §13.1.6.5, Sewer Impact Fee.

**Per-Dwelling-Unit:** The basis of calculation of the number of dwelling units in residential zones assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

**Per-Unit-of-Occupancy:** The basis of calculation of the number of occupied units in nonresidential zones assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

**13.1.4.3.23 Limitation on Assessment—Formula for Determining Cost.**

The whole of the assessments may not exceed one-half the cost of the entire project contract price of constructing and completing the sewer line including all necessary appurtenances and sewage disposal units. The municipal officers shall devise and utilize a formula for determining the fair and equitable cost to the owner or owners of land so benefited.

**13.1.4.3.34 Responsibility for Sewer Lines.**

The municipality is responsible for such sewer lines after construction and thereafter must maintain and keep the same in good repair.

## ENCLOSURE 2

### KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

#### 13.1.4.3.45 Record of Location of Sewer Line—Notification of Owner.

A. The municipal officers shall file with the clerk of the Town the location of the sewer line and sewage disposal units and appurtenances, with a profile description of the same and a statement of the amount assessed upon each lot or parcel of land so assessed and the name of the owner of the lots or parcels of land or person against whom the assessment is made.

B. The clerk of the Town is to record the assessment in a book kept for that purpose and within ten (10) days after filing notice, each person so assessed is to be notified of the assessment by having an authentic copy of the assessment, with an order of notice signed by the clerk of the Town stating the time and place for a hearing upon the subject matter of the assessments, given to each person so assessed or left at their usual place of abode in the Town.

C. If a person has no place of abode in the Town, then the notice may be given or left at the abode of their tenant or lessee, if the person has one in the Town; ~~if the person has no tenant or lessee in the Town, then by posting the notice in some conspicuous place in the vicinity of the lot or parcel of land so assessed at least thirty (30) days before the hearing; or~~ the notice may be given by publishing it three weeks successively in any newspaper published in the Town, the first publication to be at least thirty (30) days before the hearing.

D. A return made upon a copy of the notice by any constable in the Town or the production of the paper containing the notice is conclusive evidence that the notice was given, and upon the hearing, the municipal officers have power to revise, increase or diminish any of the assessments, and any revisions, increase or diminution is to be in writing and recorded by the clerk.

#### 13.1.4.3.56 ~~Farm~~ Farm and Open Space Land Exempt from Assessment.

A. ~~Farm~~ Land, classified and restricted for use for agricultural, forest/woodland, open space or wildlife habitat purposes as defined by 36, M.R.S. -§1102.44, is exempt from the assessment provided in Section §13.1.4.3 of this section when no benefits are derived from the common sewer or drain. Owners of such qualified farmland must notify the municipal officers that their property may qualify for this exception. The municipal officers are to revise the assessments against such qualified farmland to exempt it from assessment. Any revision of assessment provided by this paragraph is to be in writing and recorded by the clerk.

B. When the use of the land is changed from ~~farmland~~ such exempted use, the owner must, within sixty (60) days, notify the municipal officers in writing of the change. The municipal officers shall assess this land in an amount equal to the assessment which would have been due but for the provisions of this paragraph. The municipality must notify the owner of the assessment due which the owner must pay within sixty (60) days of notice or as provided by the municipal officers under their authority in 30-A, M.R.S. §4452, Enforcement of land use laws and ordinances ~~4453~~.

#### 13.1.4.3.6 ~~Special Sewer Entrance Permit Fees.~~

A. ~~A special sewer entrance permit fee as set out in Appendix A is established on a per dwelling unit basis as defined in the zoning ordinance for residential zones and on a per unit of occupancy basis for buildings in a nonresidential zone for entrance to the above-listed assessed public sewers and any future city-assessed public sewers to service any nonassessed parcels of property by such public sewers, provided that there is presently a house service connection existing. If not, the property owner would be responsible for the charges to install this service connection.~~



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B. The foregoing phrase “nonassessed parcels of property” includes both the parcels of abutting property that were not assessed when the sewer construction assessments were made and those parcels that were thereafter found not benefited by such sewers and therefore not subject to such assessments.

C. The permit fee is to be paid in full prior to the issuance of such permit and prior to the entrance of such public sewers to service the nonassessed parcels of property.

D. Any person or party seeking such a permit who may be aggrieved by the provisions herein set forth may file an appeal to the municipal officers for a review of the application for the permit. The municipal officers must grant a hearing on the application and upon a review of the same may modify the provisions herein set forth as they may deem expedient and proper for the issuance of such permit.

#### 13.1.4.4 Collection of Assessments and Charges.

A. All assessments and charges made pursuant to this article are to be certified by the municipal officers and filed with the tax collector for collection. A facsimile of the signatures of the municipal officers imprinted at their direction upon any certification of an assessment or charge under this article has the same validity as their signatures.

B. The tax collector may enter into a written mortgage agreement with the owner or owner(s) of land so assessed and provide the same with an extended promissory note and installment payment plan for the amount of the assessment (“Assessment Payment Plan”). This Assessment Payment Plan, which agreement is to provide for payment of said assessment to the Town over a period not to exceed the shorter of eighteen (18) years, or two years shorter than the Town's bond repayment period for the applicable project, exceed ten (10) years of such assessment at an interest rate to be determined by the municipal officers. Such agreement is also to specify the method of collection in the event that such payment is in default, and further, the mortgage agreement is to be recorded by the Town in the York County registry of deeds.

C. Owners with household income less than or equal to 50% of the local Area Median Family Income as determined annually by the US Department of Housing and Urban Development and varied by household size, may request deferral of payment of the assessment without penalty or additional interest incurred for the period of eligibility. Should the tax collector find an owner ineligible under those provisions, the tax collector may enter into a written agreement with the owner under the same term and terms pursuant to B, above.

D. Should the tax collector decline to enter into such payment agreement, aggrieved owner(s) may appeal the decision to the Board of Appeals pursuant to Chapter 13.2, Sewer Service Decision Appeals.

E. Payment of the assessment is due in full upon demise of the owner(s); sale or transfer of the property; and, in no greater a period than permitted for the original adopted Assessment Payment plans.

F. The municipal officers shall annually file with the tax collector a list of installment payments due the municipality under such written agreements with the owner or owners of land so assessed.

G. If the person, firm or corporation so assessed within thirty (30) days after written notice of the total amount of such assessment and charges, or annual installment payment and interest, fails, neglects or refuses to pay such municipality the expense thereby incurred, or fails to enter into a written agreement as provided herein for payment of the same, or fails to pay any installment due under a written agreement so entered, then a special tax in the amount of the total unpaid assessment and charge may be assessed by the municipal assessor upon each and every lot or parcel of land so assessed and buildings upon the same, and.

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### KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

H. Such assessment is to be included in the next annual warrant to the tax collector for collection, and collected in the same manner as state, county, and municipal taxes are collected. Interest at a rate of twelve percent (12%) per year on the unpaid portion of assessments and charges due the municipality accrues from the thirtieth day after written notice to the person assessed, and is to be added to and become part of the special tax when committed to the tax collector.

#### ~~13.1.4.5~~ **Appeal of Assessment.**

~~Any person not satisfied with the amount of assessment pursuant to Section 13.1.4.3 may appeal within ten (10) days pursuant to 30-A M.R.S. §3443.~~

#### ~~13.1.4.6~~ **Special Appeals.**

##### ~~13.1.4.6.1~~ **Definitions**

~~The following definitions apply to this Section only:~~

~~**Unbuildable** means no structure containing or required to contain sanitary facilities may be legally constructed to zoning restrictions.~~

~~**Zoning** means any land use and development statute, ordinance, rule, or regulation promulgated by a federal, state, or local government or agency.~~

##### ~~13.1.4.6.2~~ **Right to Appeal.**

~~Any person or entity not satisfied with the amount assessed pursuant to Section 13.1.4.3 may, without limitation of time, appeal the assessed amount to the Board of Appeals providing, at time of assessment:~~

~~A. The appellant was the record owner of the assessed property and, excepting spousal inclusions or exclusions, remains so without interruption at time of appeal; and~~

~~B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.~~

##### ~~13.1.4.6.3~~ **Initiating an Appeal.**

~~Special appeals are initiated by applications available from and filed with the municipal clerk. Filed applications must be accompanied by a written statement from the Code Enforcement Officer that the involved property is unbuildable as defined in this section, plus the written determination of the Board of Appeals affirming the Code Enforcement Officer's decision. Both must be dated not more than ninety (90) days prior to filing.~~

##### ~~13.1.4.6.3~~ **Hearing the Appeal.**

~~The Board of Appeals is empowered to hear special appeals pursuant to 30-A M.R.S. 2691.4. Within forty-five (45) days of a special appeal filing, the Board must hear the matter and, within ten (10) days thereafter, issued a written decision granting or denying appellant's request for abatement of the betterment assessment in its entirety. If the appeal is granted, the town must, within thirty (30) days of the decision, refund the assessed amount, exclusive of interest.~~

## **Chapter 13.2 Article VI. New Sewer Service Impact Connection Fees**

### **13.1.6 Requirement.**

#### **13.1.6.1 Benefited and Assessed Properties.**

Main extension projects include properties established by the Town Council as benefited and owners are obliged to pay an assessment fee as ordained above. The fees required by the provisions of this chapter do not apply to connections to the municipal sewage collection system of any structure existing at the time of adoption of an Assessment Plan for such benefited and assessed properties.

ENCLOSURE 2  
KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

**13.1.6.2 Changes to Benefited and Assessed Properties – Impact Fee.**

An impact fee is assessed when there is a change in the use, character, or size, of any structure on a parcel, or any other condition that results in additional sewage flow from that parcel. Additional sewage flow is any increase in the number of units of occupancy over that existing at the time of adoption of an Assessment Plan resulting in an increase in the wastewater discharge over that existing; or, reasonably estimated to have existed as date of the benefit assessment plan adoption.

**13.1.6.3 New Main Entrance Connection.**

Changes in use for benefited properties and all properties not included in a prior main extension Assessment Plan (not benefited or assessed) requiring a new sewer main entrance connection must pay a special sewer entrance connection fee, as reflected in §13.1.6.6.

**13.1.6.4 Changes to Unassessed Properties – Impact Fee.**

All properties not included in a prior sewer main extension Assessment Plan (not benefited or assessed) must pay an impact fee as reflected in §13.1.6.5, except any which have an easement agreement granted to the Town in lieu of other compensation.

**13.2.41.6.5 Sewer Impact Fee.**

**13.2.41.6.5.1 Time Payable.**

~~SA sewer impact fees, is due and payable by the property owner pursuant to this section, must be paid prior to the connection of any sewer line to the municipal sewage collection system; or upon the issuance of any plumbing permit for additional plumbing fixtures; or change in use of any property already connected to the municipal sewage collection system. Said sewer impact fee is to be determined as provided in Subsection B of this section. As used in this chapter the term “plumbing fixture” is as defined by the State of Maine Internal Plumbing Rules, Chapter 238, promulgated pursuant to 22 M.R.S. §42.~~

**13.2.41.6.5.2 Amount Determined.**

The sewer impact fee payable pursuant to subsection A of this section is determined by multiplying the unit charge for the particular category(s) of property use as set forth in §13.1.6.5.3 or 4, subsection C of this section by the basic sewer impact fee of two thousand dollars (\$2,000.00) per unit chargeset forth in Town Code Appendix A.

**13.2.41.6.5.3 Categories of Use and Unit Charge.**

The following categories of property use carry the unit charge set forth herein to be used in the computation of the sewer impact fee as provided ~~above~~in subsection B of this section:

Minimum charge.....	1/2 unit charge
Single-family dwelling or condominium unit.....	1 unit charge
Multifamily dwelling or condominium unit	
per dwelling or condominium unit.....	1 unit charge
3 hotel units (double occupancy).....	1 unit charge
5 motel units (double occupancy).....	1 unit charge
4 boarding house (double occupancy).....	1 unit charge
7 cabins.....	1 unit charge
15 school students (day school).....	1 unit charge
4 school students (boarding school).....	1 unit charge
2 hospital beds (medical).....	1 unit charge



## ENCLOSURE 2

### KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

257	3 nursing home beds.....	1 unit charge
258	50 theater seats.....	1 unit charge
259	30 employees.....	1 unit charge
260	Retail store per 1,500 gross square feet.....	1 unit charge
261	30 full service restaurant or function room seats.....	1 unit charge
262	1 laundromat machine.....	1 unit charge
263	1 automobile service station.....	3 unit charges
264	Fast food and/or drive-in service restaurant (15 seats).....	1 unit charge
265	10 yacht or country club members.....	1 unit charge
266	50 church members.....	1 unit charge
267	Industrial and manufacturing use.....	Base minimum on
268		domestic use plus any
269		process water usage

270 Commercial and retail uses:

271 5 plumbing fixtures added to existing structures  
272 and connected to wastewater collection system..... 1 unit charge

273 For any category of use or change in use not specifically set forth above, the enforcing officer  
274 determines the total number of unit charges based upon a per unit load of three hundred (300)  
275 gallons per day.

#### 276 **13.2.41.6.5.4 Proportional Factors.**

277 When the number of units within a category of use does not exactly correspond to that listed in  
278 the schedule above, a proportional factor is to be utilized to calculate the total sewer impact fee.  
279 For example, to compute the total sewer impact fee for a seven-unit motel the following  
280 calculation is used:

$$\begin{aligned} 281 & \text{—————} 7 \text{ motel units} = 1 \text{ Unit charge for } 5 + 2/5 \text{ Unit charge for } 2 \\ 282 & = \$3,000 + (2/5 \times \$3,000 (\$1,200)) = \$4,200.00 \end{aligned}$$

$$283 \text{ —————} \times \$2,000 \text{ per unit charge} = \$2,800$$

$$284 \text{ —————} 5 \text{ motel units}$$

$$285 \text{ —————} \text{ per unit charge}$$

#### 286 **13.2.41.6.5.5 Multiple Category Factors.**

287 If two or more categories of use may apply to a particular proposed use, the sewer impact fee is  
288 the higher of the two or more calculations. However, when there are multiple uses within a  
289 structure, each such use is subject to a separate sewer impact fee.

#### 290 **13.2.41.6.5.6 Fee Determination and Appeal.**

291 A. The sewer impact fee due and payable by the property owner is to be calculated and  
292 determined by the enforcing Code Enforcement Officer. ~~If the property owner is aggrieved by~~  
293 ~~the determination of the enforcing officer, a written appeal may be filed with the Town Manager within ten~~  
294 ~~(10) days from the date of notification of such determination by the enforcing officer. The written appeal~~  
295 ~~must set forth a concise statement of the grounds upon which the property owner contends that the~~  
296 ~~determination by the enforcing officer is in error.~~

297 B. ~~The Town Manager, within seven days of receiving the appeal, shall set a date to hear and determine~~  
298 ~~the appeal. The hearing date may not be more than fourteen (14) days from the date the appeal is filed~~  
299 ~~with the Town Manager. The property owner is allowed to present whatever testimony or evidence the~~  
300 ~~owner may determine to be relevant and appropriate to the appeal before the Town Manager.~~

## ENCLOSURE 2

### KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

C. The Town Manager shall issue a decision on the appeal within five days after hearing. The Town Manager's decision is a final determination of the appeal.

#### ~~13.2.2~~ Sewer Impact Fee Fund.

A. A sewer impact fee fund is established and is the depository for all sewer impact fees collected by the enforcing officer under the terms of this chapter. Said fund is to be segregated by the Town from general revenues and used solely and exclusively towards expenses for capital improvements to the municipal sewage treatment plant made necessary by the increased development giving rise to the payment of said fees.

B. The proceeds in this fund may be expended in concert with other revenues and planned expenditures or capital improvement funds of the Town but only for capital improvements to the municipal sewage treatment plant as distinct from expenses for the maintenance and repair to the existing municipal sewage treatment system. All moneys so accumulated in this fund are to be expended by the Town for the specific purposes stated herein within ten (10) years of their collection and deposit therein.

#### ~~13.2.3~~ Existing Structures and Uses Exempted.

The sewer impact fee required by the provisions of this chapter does not apply to the connections to the municipal sewage collection system of any sewage disposal system, presently existing or operating or servicing any building, structure or dwelling as of the effective date of the ordinance codified in this chapter provided, however, that any change in the use, character or size of any such building, structure or dwelling after the effective date of the ordinance codified in this chapter which results in additional sewage flow is not exempt from the sewer impact fee. For purposes of this provision, additional flow is defined as any increase in the number of residential units over that existing as of the effective date of the ordinance codified in this chapter or any change in the use or intensity of nonresidential property resulting in an increase in the wastewater discharge over that existing or reasonably estimated to have existed as of the effective date of the ordinance codified in this chapter.

#### **13.1.6.6 Special Sewer Entrance Connection Fee.**

A. A special sewer entrance connection fee as set out in Town Code Appendix A is established on a per-dwelling-unit basis for residential zones and on a per-unit-of-occupancy basis for buildings in a nonresidential zone for each new sewer entrance connection to a system main.

B. The entrance connection fee is to be paid in full prior to the issuance of a permit for the new connection.

#### **13.2.41.6.7 Off-premises Construction Costs.**

All costs of extending sewage lines from the property to be serviced to the municipal sewage collection system are to be assumed solely by the owner or party having an interest in the property to be so serviced, and ~~No~~ such construction may commence until there is complete compliance with all provisions of this chapter and all other relevant governmental statutes, rules and regulations. Extension of the sewer lines and pumping station must meet the standards of the Town and capacity must be such as to handle all anticipated sewage flows and allow for flow from all possible future extension or development within immediate drainage area as determined by the Town.

#### **13.2.51.6.8 Municipal Contracts or Agreements Exempted and Town Property.**

This chapter does not apply to sewage disposal covered by any agreement or contract between the Town and any governmental body, or subdivision thereof, nor does it apply to the treatment of any sewage flow from property owned by the Town.

#### **13.2.61.6.9 Enforcement.**

This chapter is enforced by the code enforcement officer.

## ENCLOSURE 2

### KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

#### **13.2.7 Violation—Penalty.**

Any person who violates any of the provisions of this chapter is guilty of a civil infraction and liable for a fine not to exceed one hundred dollars (\$100.00). Each day such violation is permitted to exist after written notification thereof by the enforcing officer constitutes a separate offense. All fines collected hereunder accrue to the Town. When any violation of any provision of this chapter is found to exist, the Town attorney upon notice from the Town Manager, is authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this chapter, the same to be brought in the name of the Town.

#### **Article VII Special Entrance and Impact Fee Fund Accounting**

#### **13.1.7 Special Entrance and Impact Fee Fund.**

A. A Wastewater Treatment Department fund account is established and is the depository for all special sewer entrance connection and impact fees collected under the terms of this chapter. Said fund is to be accounted as a Department designated reserve and used solely and exclusively towards expenses for capital improvements and repair/replacement of capital components of the municipal wastewater treatment system.

B. The proceeds in this fund may be expended in concert with other revenues and planned expenditures or capital improvement funds of the Town, but only for capital improvements to the municipal wastewater treatment system as distinct from expenses for regular operations, maintenance, and repair. All moneys accumulated in this fund are to be expended by the Town for the specific purposes stated herein within ten (10) years of their collection and deposit therein, or within the amortization period of any project bond created for the same purpose(s).

#### **Chapter 13.2 SEWER SERVICE DECISION APPEALS**

#### **13.2.1 Arbitration Appeal of Assessment.**

A. Any person not satisfied with the amount of assessment pursuant to §13.1.4.3 may appeal within ten (10) days after a hearing by the municipal officers, pursuant to 30-A, M.R.S. §3443, Arbitration of assessment, to an independent arbitration panel as established by the municipal officers as incorporated in the Assessment Plan adopted for any main extension project.

1. Arbitrators selected. The municipal officers shall nominate six persons who are residents of the municipality. The applicant shall select two of these persons, and these two persons shall select a third person who is a resident of the municipality and who is not one of the six persons nominated by the municipal officers.

2. Arbitration procedure. The three persons selected under subsection 1 shall fix the amount to be paid by the applicant. Within 30 days from the hearing before the municipal officers under 30-A, M.R.S. §3442, the arbitrators shall report their findings to the municipal clerk who shall record them. The arbitrators' report is final and binding on all parties.

B. Appellants are referred to 14, M.R.S. Chapter 706, Uniform Arbitration Act, §5931, et seq, for statutory provisions related to such appeals.

#### **13.2.2 Unbuildable Parcel Appeals.**

#### **13.2.2.1 Definitions.**

The following definitions apply to this Section only:

## ENCLOSURE 2

### KITTERY TOWN CODE TITLE 13 – PROPOSED AMENDMENTS – 08-08-16

**Unbuildable** means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

**Zoning** means any land use and development statute, ordinance, rule, or regulation promulgated by a federal, state, or local government or agency.

#### **13.2.2.2 Right to Unbuildable Parcel Appeal.**

Any person owning a property, included in an adopted Assessment Plan for a sewer main extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:

A. The appellant was the record owner of the assessed property and, excepting spousal inclusions or exclusions, remains so without interruption at time of appeal; and

B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.

#### **13.2.2.3 Initiating an Unbuildable Parcel Appeal.**

A. Unbuildable Parcel Appeals are to be filed in accordance with Town Code Title 16, §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code section's protocols for the Board to address such appeals apply.

B. Filed applications must be accompanied by a written statement from the Code Enforcement Officer and Town Planner regarding whether the involved property is developable as defined in this section.

#### **13.2.3 Sewer Service Administrative Decision Appeals.**

A. Any person filing a permit application for a sewer special entrance connection; or, is determined by the Code Enforcement Officer to be obliged to pay an impact fee, who may be aggrieved by the provisions set forth herein, may file an Administrative Decision appeal to the BoA for a review of the determination.

B. Any person denied a Payment Plan by the tax collector may file an Administrative Decision appeal to the BoA for such decisions.

C. Such Administrative Decision appeals are to be filed in accordance with Town Code Title 16, §6.5, Board of Appeals Appeal/Request Filing Procedures. The pertinent provisions of that Code section's protocols for the Board to address such appeals apply.

AMENDMENTS TO ENCLOSURE 2 – STRIKEOUT VERSION – 08-08-16

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**NEW – ADDED - Page 1 – BEFORE Lines 16-18:**

**13.1.1.7 Rates and Charges.**

E. Rates for nonmeter residential customers are to be based on the State of Maine Plumbing Code Tables 5-1 and 5-2 as set forth in Town Code Appendix A, or the owner may install an approved meter at owner expense.

**Rationale: Plumbing code obsolete.**

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**Page 1 – Lines 16-18:**

**13.1.1.7 Rates and Charges.**

F. Sewer user rate charges in accordance with this section will begin ninety (90) days after notification by Town of the availability of the public sewer to serve the premises parcels and remain in force whether or not the premises are occupied. Parcels not connected to the system are not liable for Quarterly Usage charges.

**Rationale: No service is provided and no fee warranted. Same as Water District whose lines passed properties not connected.**

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**Page 1 – Lines 36-41:**

**13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.**

C. When gravity flow cannot be obtained from the building or the property, the connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

D. Owners of properties with a septic tank and leach field system installed within twenty (20) years of any main extension project completion date may request deferral of connection until the system has reached the twenty-years after installation anniversary.

**Rationale: Twenty years is a reasonable life-cycle for septic-leach field systems.**

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**Page 2 – Lines 60-62:**

**Unassessed Parcel:** Those parcels of property that were not benefitted or assessed when sewer main extension assessments were made; and, those parcels that were thereafter found not benefitted by such sewers and therefore not subject to such assessments.

**Rationale: Removes “abutting”.**



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**Page 2 – Lines 69-74:**

**13.1.4.3.2 Definitions.**

**Per-Dwelling-Unit:** The basis of calculation of the number of dwelling units for residences assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

**Per-Unit-of-Occupancy:** The basis of calculation of the number of occupied units for nonresidential structures assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

**Rationale:** Consistent with language adopted in Town Code appendix A.

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**Page 4 – Lines 140-148:**

**13.1.4.4 Collection of Assessments and Charges.**

B. The tax collector may enter into a written agreement with the owner or owner(s) of land so assessed and provide the same with a promissory note and installment payment plan for the amount of the assessment ("Assessment Payment Plan"). .....

**Rationale:** Removes "extended".

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**Page 4 – Lines 158-160:**

E. Payment of the assessment is due in full in no greater a period than permitted for the original adopted Assessment Payment plans, upon demise of the owner(s); or transfer to any other owner by gift, assignment, devise, sale, or otherwise, except for:

A. Transfers to a spouse or joint tenant, living or surviving, provided the transferee executes a new Mortgage Agreement, Promissory Note and Installment Payment agreement with the Town.

B. Transfers to trusts, providing the trustee executes a new Mortgage Agreement, Promissory Note and Installment Payment agreement with the Town.

**Rationale:** Remain consistent with all documentation.

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**Page 8 – Lines 325-328:**

**13.1.6.6 Special Sewer Entrance Connection Fee.**

A. A special sewer entrance connection fee as set out in Town Code Appendix A is established on a per-dwelling-unit basis for residences and on a per-unit-of-occupancy basis for nonresidential structures for each new sewer entrance connection to a system main.

**Rationale:** Consistent with language adopted in Town Code appendix A.

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**Page 9 – Lines 381-382:**

**13.2.1 Arbitration Appeal of Assessment.**

B. Appellants are referred to 14 M.R.S. Chapter 706, Uniform Arbitration Act, et seq, for statutory provisions related to such appeals.

**Rationale: All of Chapter 706 may be applicable, not just section 5931.**

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**Page 10 – Lines 395-396:**

**13.2.2.2 Right to Unbuildable Parcel Appeal.**

A. The appellant was the record owner of the assessed property and, excepting spousal or trust inclusions or exclusions, remains so without interruption at time of appeal; and

**Rationale: Adds “trust”.**

## REPORT TO THE KITTELY TOWN COUNCIL – SEWER ASSESSMENT

**RESPONSIBLE INDIVIDUAL:** Granfield

**Date:** August 15, 2016

**SPONSOR:** Beers

**SUBJECT:** 2015 Sewer Main Extension Assessment Plan

### **BACKGROUND:**

- Extensive prior history
- Town Manager Report / Presentation to Council 06-27-16
- Council Workshop 07-18-16
- Town Code Appendix A Revision – Special Entrance & Impact Fees – 08-08-16
- Arbitration Panel protocols – 08-08-16

*Note: These materials were previously provided. Available on request.*

- Town Code Title 13 Revisions for Ordainment – 08-15-16 – Separate Report

### **CURRENT SITUATION**

#### **1. Plan Explanation:**

Pursuant to Maine Title 30-A, §3442. Expense of construction, and Town Code Title 13, Chapter 1, Article IV, Main Extensions, the municipal officers are obliged to determine the parcels of land with or without structures thereon benefited by said main extension project sewer line; the formula and total just and equitable amount assessed upon said parcels and against the record owner(s) thereof; and, the sum not exceeding the benefit deemed fair and equitable towards defraying the expenses of said sewer construction assessed to each parcel.

The municipal officers must file with the clerk of the Town the location of the sewer line and sewage disposal units and appurtenances, with a profile description of the same and a statement of the amount assessed upon each lot or parcel of land so assessed and the name of the owner of the lots or parcels of land or person against whom the assessment is made.

All assessments and charges made pursuant to this plan are to be certified by the municipal officers and filed with the tax collector for collection.

The Plan (*encl 1*) includes the features deemed necessary to provide clear instruction to all parties on its application and administration; the obligatory main extension project map (*Plan atch 1*); and the assessment data calculations for each affected parcel (*Plan atch 2*).

The data in the assessment calculations file was reviewed on 08/02/16 and found correct according to the Town's property tax records on file.

#### **2. Mortgage, Promissory Note & Installment Payment Plan Agreement Model**

Provision is made for affected property owners to pay their assessment for this project over a period not to exceed 18 years. A model set of draft documents (*encl 2*) is proposed to lay out the necessary language to arrange such plans, along with a payment calculation amortization tool to enable owner(s) to readily determine payment features (e.g. time period, monthly payment; interest paid).

The formal amortization schedule will be created in the Town's MUNIS accounting software when the mortgage and note plan is set up. This tool is for owners to examine their plan options before making arrangements with the town. Minor differences occur between the two periodically (pennies). Payment plans will be set for quarterly payments a month off from the quarterly user bills.



## REPORT TO THE KITTERY TOWN COUNCIL – SEWER ASSESSMENT

### 3. Other Appeals

Three other separate avenues of appeal are found in the current Town Code Title 13, one to the Board of Appeals; one to the Town Council; and, one to the Town Manager. It was proposed to restructure the appeals process into one title chapter; retaining the arbitrator panel unchanged; and, assigning responsibility for unbuildable lot; tax collector payment plan denial; and, CEO impact fee and special entrance permit decisions to the Board of Appeals. A model set of draft documents (*encl 3*) is proposed to achieve that objective, along with the revisions to Title 13 postponed to Aug 15<sup>th</sup> for ordainment. Note that appellants are referred to Title 16 for the requisite process and that Administrative Appeals are a regular process for the BoA.

### 4. Town Clerk Requirements

Upon adoption of the Assessment Plan, the Town Clerk must issue a Hearing Order of Notice giving the time and place for a hearing upon the subject matter of the assessments, to be given to each person so assessed or left at their usual place of abode in the Town. A model set of draft documents (*encl 4*) is proposed to set up the protocol for creation of the letters to the affected property owners.

It includes a mail merge file set to facilitate production of the necessary letters and elements to be communicated without duplication of effort, or manual entry error possibilities; and, a form for interested owners to make request for a hearing that includes information Council needs to make a determination.

Unfortunately, if any of the property owners do not have an abode in Town, a 30-day notice process must be engaged, which would make the first hearing date possible to be September 19th. See 13.1.4.3.5D

**RECOMMENDATION:** Approve Assessment Plan, and the Payment, Appeals, and Town Clerk models.

### 4 Enclosures

1. 2015 Main Extension Project Assessment Plan w/
  - a1. Kittery Sewer Main Extension Project 2015 – Map
  - a2. 2015 Project - Assessment Plan Calculations
2. Payment Plan Model Agreement Documents
3. Other Appeal Model Documents
4. Town Clerk Hearing Order of Notice Model Documents

**RTC ENCLOSURE 1**  
**2015 Main Extension Project Assessment Plan**

**TOWN of KITTERY**  
**2015 Sewer Main Extension Project Assessment Plan**

**NOTICE TO THE TOWN CLERK**  
**BY THE TOWN OF KITTERY MUNICIPAL OFFICERS**  
**OF LOTS BENEFITED AND AMOUNTS OF BENEFIT ASSESSMENTS**  
**ON EACH LOT RESULTING FROM THE**  
**2015 SEWER MAIN EXTENSION CONSTRUCTION PROJECT**

**RECITALS**

**Whereas**, the Town of Kittery proposed a sewer main extension project which was approved by the Inhabitant of the Town voting on June 13, 2013; and

**Whereas**, the project was approved in the same warrant article to be funded through bonds in the amount of \$7,586,525.00 which were acquired and expended on behalf of the project, with annual debt service for repayment from fiscal 2017 through fiscal year 2036; the project warrant article noted that payment for same would not increase sewer rates or local property taxes in and of itself; and, the municipal officers find a reasonable Department revenue projection for the repayment period should serve to achieve that; and

**Whereas**, pursuant to Maine Revised Statutes Title 30-A, §3442. Expense of construction, and Town Code Title 13, Chapter 1, Article IV, Main Extensions, the municipal officers are obliged to determine the parcels of land with or without structures thereon benefited by said main extension sewer line; the formula and total fair and equitable amount assessed upon said parcels and against the record owner(s) thereof; and, the sum not exceeding the benefit deemed fair and equitable towards defraying the expenses of said sewer main construction assessed to each parcel; and

**Whereas**, the properties included in this assessment were provided direct access to the sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable, or not; and

**Whereas**, the properties included in this assessment are deemed benefited by main pipeline access stubs installed onto the properties and capped off for future connection; and

**Whereas**, the owners of said benefited properties included in this adopted Assessment Plan are obliged to pay an Assessment Fee and other provisions of Town Code Title 13, Public Services, do apply; and

**Whereas**, the municipal officers find that the provisions of this 2015 Sewer Main Extension Project Assessment Plan meets, or exceeds, the Town's obligations of statute and ordinance; and

**TOWN of KITTERY**  
**2015 Sewer Main Extension Project Assessment Plan**

**Whereas**, the municipal officers must file with the clerk of the Town the location of the sewer line and sewage disposal units and appurtenances, with a profile description of the same and a statement of the amount assessed upon each lot or parcel of land so assessed and the name of the owner of the lots or parcels of land or person against whom the assessment is made; and

**Whereas**, all assessments and charges made pursuant to this article are to be certified by the municipal officers and filed with the tax collector for collection.

**NOW THEREFORE**, the Town of Kittery hereby adopts the following Assessment Plan:

The Town of Kittery 2015 Sewer Main Extension Project location of the sewer line and sewage disposal units and appurtenances included in the project are shown on the map enclosed (Kleinfelder Plate 2, 4/25/2016), herewith and incorporated by reference (*attachment 1*). Complete sets of project engineering detail for the project are on file at Town Hall and the Sewer Department office.

The 2015 Project Assessment Calculations are shown in the spreadsheet enclosed herewith and incorporated by reference (*attachment 2*), and reflects:

- 1) the property owner, address, map & lot number, number of units, square footage, and frontage information provided and verified by the Kittery Assessor's Office as of 08/02/16.
- 2) the number of units assessed to each parcel is based on a per-dwelling-unit basis for the Suburban Residential zone and a per-unit-of occupancy basis in the Commercial and Business Park zones.
- 3) assessed map-lot parcels 29-37A; 29-35; 29-34A; 20-17; and, 11-29, while benefited, are found to not have gravity flow to the main extension line.

**A. PROJECT DETAILS:**

Project Completion Date:	May 03, 2016	
Total Project Cost:	\$7,586,525	
Project Share – Town:	\$6,164,525	(81.3 % of Total project Cost)
<i>(+ Additional \$26,528.89 – Shapleigh)</i>		
Parcel Assessment Share:	\$1,422,000	(18.7% of the Total Project Cost)
Total Number of Units on the 155 Parcels:	210	(Per-dwelling or -occupancy Basis)
Total Front Footage:	25,384	Linear feet
Total Area:	12,893,505	Square feet

The 155 benefited parcels share 18.7% of the project cost (\$1,422,000.00) and are assessed for the purpose of defraying a portion not exceeding one-half (½) of the overall cost of this sewer construction and appurtenances.

**TOWN of KITTERY**  
**2015 Sewer Main Extension Project Assessment Plan**

The basis of calculation for the assessment of each parcel is fifty percent (50%) for number of occupancy units (\$711,000.00), established on a per-dwelling-unit basis for residences and on a per-unit-of-occupancy basis for structures in nonresidential zones as found in the Town's property tax records.

Twenty-five percent (25%) each of the assessed parcel share of the cost (\$355,500.00) is based on the linear footage of frontage along the extension main abutting each parcel on a public way; and, for the total area of each parcel in square feet.

Each parcel is assessed with the resulting amounts applied for each component, as follows:

Unit	Frontage	Area
<u>\$ / parcel</u>	<u>\$ / l. ft.</u>	<u>\$ / sq. ft.</u>
\$3,385.71	\$14.00	\$0.03

The calculation data listed for each parcel is found in the Town's Property Tax records on file at Town Hall and its Vision Appraisal database online.

**B. HEARING ORDER OF NOTICE**

The Town Clerk Hearing Order of Notice giving the time and place for a hearing upon the subject matter of the assessments by the Town Council is to be given to each person so assessed or left at their usual place of abode in the Town, or to be issued to owners with no place of abode in Town as required in Town Code Title 13, §1.4.3.5. Hearing Request filing form and submittal details are to be available at the Town Clerk's office.

**C. HEARINGS**

Upon the hearings, the Council has the power to revise, increase or diminish any of the assessments, and any revisions, increase or diminution is to be in writing and recorded by the Town Clerk.

**D. ASSESSMENT, IMPACT, & SPECIAL ENTRANCE CONNECTION FEES**

Owners of the properties designated as benefited in this Assessment Plan are obliged to pay an assessment fee as defined in the Assessment Plan formula calculations (*attachment 2*).

Owner(s) obliged to make connection to the municipal sewage collection system of any structure existing at the time of adoption of this Assessment Plan are not liable for an Impact Fee, nor Sewer Special Entrance Connection Fee, unless and until the expansion, addition, or development criteria in accordance with Town Code Title 13, §1.6.2 requires such.

These documents satisfy the requirements of Town Code Title 13, §1.4.3.5, Record of Location of Sewer Line—Notification of Owner, for a statement of the amount assessed upon each lot or parcel of land so benefited and the name of the owner of the lots or parcels of land or person against whom the assessment is made.

**E. QUARTERLY SEWER CHARGES**

In accordance with Town Code Title 13 §1.1.7, Rates and Charges, quarterly sewer usage rate charges will begin ninety (90) days after notification by Town for parcels required to connect to the system. Parcels not required to connect are not liable for usage charges. Rates and fees are delineated in Town Code Appendix A.

**TOWN of KITTERY**  
**2015 Sewer Main Extension Project Assessment Plan**

**F. GRAVITY FLOW - PUMP UP**

In accordance with Town Code Title 13 §1.1.11C, when gravity flow cannot be obtained from the building or the property, the connection to said public sewer is not required. Owners of property not designated as such may request a hearing by Town Council for a determination. This does not preclude waste flows from being pumped to the public sewer should the property owner so wish.

**G. DEFERRAL – 20-YEAR TANK/FIELD**

In accordance with Town Code Title 13 §1.1.11D, owners of properties with a septic tank and leach field system installed within twenty (20) years of this main extension project completion date of May 03, 2016, may request deferral of connection until the system has reached the ten-years after installation anniversary.

**H. PAYMENT PLAN – TAX COLLECTOR**

In accordance with Town Code Title 13 §1.4.4B, the tax collector is authorized to enter into written Mortgage and Promissory Note & Install Payment Plan agreements with the owner(s) of land assessed, which agreements are to provide for payment of the Assessment to the Town over a period not to exceed eighteen (18) years from the adopted date of this Plan, at an interest rate of two percent (2%).

**I. DEFERRAL – INCOME**

In accordance with Town Code Title 13 §1.4.4C, owners with household income less than or equal to fifty percent (50%) of the local Area Median Family Income as determined annually by the US Department of Housing and Urban Development and varied by household size, may request deferral of payment of the assessment without penalty or additional interest incurred for the period of eligibility.

**J. APPEALS**

**1. Appeal – Arbitrator Panel**

In accordance with Town Code Title 13 §2.1, Appeal of Assessment, any person not satisfied with the amount of assessment pursuant to §13.1.4.3 may appeal pursuant to 30-A, M.R.S. §3443, Arbitration of assessment, within ten (10) days after a hearing by the municipal officers to an independent Arbitration panel as established. Appellants are referred to 14, M.R.S. Chapter 706, Uniform Arbitration Act, et seq, for statutory provisions related to such appeals.

**2. Appeal – Unbuildable Parcel**

In accordance with Town Code Title 13 §2.2, Unbuildable Parcel Appeals, any person owning a property, included in this Assessment Plan not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:

- A. The appellant was the record owner of the assessed property and, excepting spousal or trust inclusions or exclusions, remains so without interruption at time of appeal; and
- B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.

**TOWN of KITTERY**  
**2015 Sewer Main Extension Project Assessment Plan**

**3. Appeal – Administrative Decisions**

A. In accordance with Town Code Title 13 §2.3, any person filing a permit application for a special entrance connection, or is determined by the Code Enforcement Officer to be obliged to pay an impact fee, who may be aggrieved by the provisions set forth in Title 13, may file an Administrative Decision appeal to the Board of Appeals for a review of the determination.

B. Any person denied a Mortgage, Promissory Note & Payment Plan agreement by the tax collector may also file an Administrative Decision appeal on such decisions.

**K. 90-DAY CONNECTION – FORCE MAJEURE**

Owners are required to connect their facilities directly to the public sewer within ninety (90) days after date of official notice to do so. However, if an owner can demonstrate to the Town Manager diligent effort in arranging the connection, but is unable to meet the deadline due to unforeseeable circumstances that prevent completion within that time frame, the Town Manager may grant an extension and waive the penalties.

**L. FARM AND OPEN SPACE LAND EXEMPT FROM ASSESSMENT**

Land, classified and restricted for use for agricultural, forest/woodland, open space or wildlife habitat purposes as defined by 36 M.R.S. §1102, is exempt from the assessment provided in §13.1.4.3 when no benefits are derived from the common sewer or drain. Owners of such qualified land must notify the municipal officers that their property may qualify for this exemption.

**IN WITNESS WHEREOF**, the municipal officers of the Town of Kittery have signed and certify this adopted plan on the 15<sup>th</sup> day of August, 2016 and filed the same with the tax collector for collection.

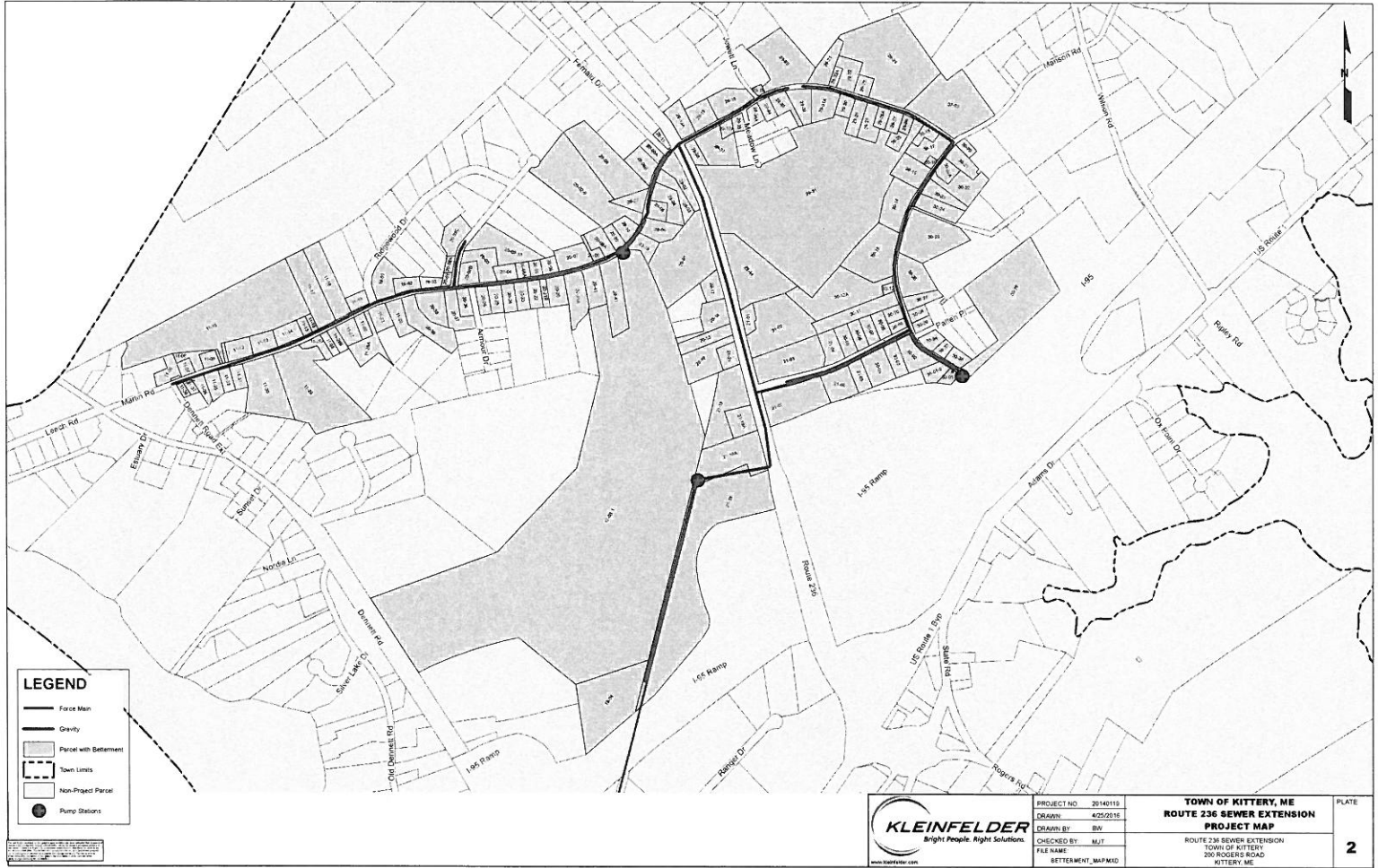
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**3 ATTACHMENTS**

1. Kittery Sewer Main Extension Project 2015 – Map (Project 20140119, 4/25/2016)
2. Project 2015 - Assessment Plan Calculations

ATTACHMENT 1 TO RTC ENCLOSURE 1  
Kittery Sewer Main Extension Project 2015 – Map





**ATTACHMENT 2 TO RTC ENCLOSURE 1**  
**Project 2015 - Assessment Plan Calculations**

## 2015 KITTERY SEWER MAIN EXTENSION PROJECT

## BENEFITTED PROPERTY ASSESSMENT CALCULATION

Adopted: AUGUST 15, 2016

## UNIT BASIS

	A	B	C	D	E	F	G	H	I	J	K
1	Kittery Sewer Main Extension Project 2015 - Property Assessments										
3	Total Project Cost		\$7,586,525		(Completion date: May 03, 2016)				(Sorted by Map & Lot Number)		
4	Project Share - Town + Additional \$26,528.89 - Shapleigh		\$6,164,525		(81.3 % of Total project Cost)						
5	Benefitted Parcel Assessment Share		\$1,422,000		(18.7% of the Total Project Cost)						
6	Total Number of Units on the listed 155 Parcels		210		(Per-dwelling or -occupancy basis)						
7	Total Front Footage		25,384		ft.						
8	Total Area		12,893,505		sq. ft.						
11	Benefitted Parcel Data										
12	Map-Lot	Property Owner	Physical Address		Units	Area (Sq. Ft)	Frontage (LF)	Unit \$	Area \$	Frontage \$	Assessment Total
13											
14	11-06	CAVANAUGH, JASON	7	MARTIN ROAD	1	32,234	132.7	\$3,385.71	\$888.77	\$1,858.45	\$6,132.93
15	11-07	GOODSON, WILLIE T	15	MARTIN ROAD	1	13,068	112.5	\$3,385.71	\$360.31	\$1,575.55	\$5,321.57
16	11-08	DINSMORE, THOMAS	17	MARTIN ROAD	1	23,958	75	\$3,385.71	\$660.57	\$1,050.37	\$5,096.65
17	11-09	SEARS, JOHN	19	MARTIN ROAD	1	17,424	137.5	\$3,385.71	\$480.41	\$1,925.67	\$5,791.80
18	11-11	ROSE, DEBORAH J	23	MARTIN ROAD	1	4,356	30	\$3,385.71	\$120.10	\$420.15	\$3,925.96
19	11-12	MACKIE, SARA ANN	29	MARTIN ROAD	1	30,492	200	\$3,385.71	\$840.73	\$2,800.98	\$7,027.42
20	11-13	NORTON, VIOLET A	33	MARTIN ROAD	2	28,314	203	\$6,771.43	\$780.67	\$2,842.99	\$10,395.09
21	11-14	OSWALD, NICOLE E	41	MARTIN ROAD	1	32,670	225	\$3,385.71	\$900.78	\$3,151.10	\$7,437.59
22	11-15	HODGKINS, DAVID M	43	MARTIN ROAD	1	10,890	75	\$3,385.71	\$300.26	\$1,050.37	\$4,736.34
23	11-16	PHILBRICK, EDWARD E	45	MARTIN ROAD	1	6,534	50	\$3,385.71	\$180.16	\$700.24	\$4,266.11
24	11-17	THAYER, RICKEY G	47	MARTIN ROAD	1	44,867	100	\$3,385.71	\$1,237.07	\$1,400.49	\$6,023.27
25	11-18	NELSON, MARK A	55	MARTIN ROAD	1	95,832	100	\$3,385.71	\$2,642.28	\$1,400.49	\$7,428.48
26	11-19	CROSSLEY, KIMBERLY	57	MARTIN ROAD	1	22,651	150	\$3,385.71	\$624.54	\$2,100.73	\$6,110.99
27	11-22	SYLVESTER, GORDON B	66	MARTIN ROAD	1	41,382	135	\$3,385.71	\$1,140.99	\$1,890.66	\$6,417.36
28	11-23	CORLISS, TR, ROSE	64	MARTIN ROAD	1	23,958	135	\$3,385.71	\$660.57	\$1,890.66	\$5,936.94
29	11-26	GREENE, CAROL J	58	MARTIN ROAD	1	16,117	90	\$3,385.71	\$444.38	\$1,260.44	\$5,090.54
30	11-26A	STARKEY, RICHARD A	60	MARTIN ROAD	1	35,284	30	\$3,385.71	\$972.84	\$420.15	\$4,778.70
31	11-27	FIFIELD FAMILY TR	54	MARTIN ROAD	1	26,136	165	\$3,385.71	\$720.62	\$2,310.81	\$6,417.14
32	11-28	PEVERLY, MARCIA	48	MARTIN ROAD	1	10,890	60	\$3,385.71	\$300.26	\$840.29	\$4,526.27
33	11-28A	WREN, AME B	46	MARTIN ROAD	1	10,890	100	\$3,385.71	\$300.26	\$1,400.49	\$5,086.46
34	11-28B	DELGROSSO, CONSTANCE L	52	MARTIN ROAD	1	15,246	80	\$3,385.71	\$420.36	\$1,120.39	\$4,926.47
35	11-29	JOHNSON, JAMES P	32	MARTIN ROAD	0	248,292	115.8	\$0.00	\$6,845.91	\$1,621.77	\$8,467.68

## UNIT BASIS

	A	B	C	D	E	F	G	H	I	J	K
11	Benefitted Parcel Data										
12	Map-Lot	Property Owner	Physical Address		Units	Area (Sq. Ft)	Frontage (LF)	Unit \$	Area \$	Frontage \$	Assessment Total
13											
36	11-30	SOUTHERN MAINE FISH & GAME INC	30	MARTIN ROAD	1	174,240	137.5	\$3,385.71	\$4,804.15	\$1,925.67	\$10,115.53
37	11-31	DEROSIA, THOMAS K	26	MARTIN ROAD	1	19,602	100	\$3,385.71	\$540.47	\$1,400.49	\$5,326.67
38	11-33	LUMINO, KATHERINE ANNE	24	MARTIN ROAD	1	19,602	100	\$3,385.71	\$540.47	\$1,400.49	\$5,326.67
39	11-35	KENNEDY, JOSEPH M	20	MARTIN ROAD	1	23,958	130	\$3,385.71	\$660.57	\$1,820.63	\$5,866.92
40	11-36	GUAY, KATHY JANE	16	MARTIN ROAD	1	13,068	100	\$3,385.71	\$360.31	\$1,400.49	\$5,146.51
41	11-37	BASSETT, JENNIFER A	14	MARTIN ROAD	1	8,712	70	\$3,385.71	\$240.21	\$980.34	\$4,606.26
42	11-38	FORD, RYAN L	158	DENNETT ROAD EXT	1	15,246	130	\$3,385.71	\$420.36	\$1,820.63	\$5,626.71
43	12-03-1	DENNETT, TR, MARY	98	DENNETT ROAD	0	3,574,534	704.23	\$0.00	\$98,557.12	\$9,862.66	\$108,419.78
44	13-04	CULLEN, WILLIAM J	31	GROVER AVENUE	0	217,800	511	\$0.00	\$6,005.19	\$7,156.49	\$13,161.68
45	19-01	FREDERICKS, JACQUELINE	65	MARTIN ROAD	1	21,780	146.5	\$3,385.71	\$600.52	\$2,051.71	\$6,037.95
46	19-02	ROBILLARD, PATRICIA J	71	MARTIN ROAD	1	19,602	200	\$3,385.71	\$540.47	\$2,800.98	\$6,727.16
47	19-03	KOTERBA, JEAN M	75	MARTIN ROAD	1	17,424	163	\$3,385.71	\$480.41	\$2,282.80	\$6,148.92
48	20-01	WALKER, ERIC	77	MARTIN ROAD	1	15,246	100	\$3,385.71	\$420.36	\$1,400.49	\$5,206.57
49	20-02-13	MOORE, WILLIAM T	6	RIDGEWOOD DRIVE	1	84,942	286	\$3,385.71	\$2,342.02	\$4,005.40	\$9,733.13
50	20-02-9	BUSSING, JAMES G	14	RIDGEWOOD DRIVE	0	249,163	134	\$0.00	\$6,869.93	\$1,876.65	\$8,746.59
51	20-02A	SHAFFER, JOSEPH L	5	RIDGEWOOD DRIVE	1	15,246	150	\$3,385.71	\$420.36	\$2,100.73	\$5,906.81
52	20-02B	O'BRIEN, THERESA L	83	MARTIN ROAD	1	34,848	195.2	\$3,385.71	\$960.83	\$2,733.75	\$7,080.30
53	20-02C	DIXON, FRED W	7	RIDGEWOOD DRIVE	1	48,787	229.89	\$3,385.71	\$1,345.16	\$3,219.58	\$7,950.46
54	20-03	BEAN, BARBARA E	87	MARTIN ROAD	1	54,450	150	\$3,385.71	\$1,501.30	\$2,100.73	\$6,987.74
55	20-04	CENTRAL MAINE POWER CO	91	MARTIN ROAD	0	21,780	150	\$0.00	\$600.52	\$2,100.73	\$2,701.25
56	20-05	PROCTOR, LOUIS R	99	MARTIN ROAD	1	14,810	100	\$3,385.71	\$408.35	\$1,400.49	\$5,194.55
57	20-05A	DICKSON, SUSAN J	95	MARTIN ROAD	1	14,810	100	\$3,385.71	\$408.35	\$1,400.49	\$5,194.55
58	20-06	ADAMS, MONICA	101	MARTIN ROAD	1	19,602	125	\$3,385.71	\$540.47	\$1,750.61	\$5,676.79
59	20-07	PENNEY, DON G	107	MARTIN ROAD	1	50,094	275	\$3,385.71	\$1,381.19	\$3,851.34	\$8,618.25
60	20-08	JOHNSTON, ELIOT	111A	MARTIN ROAD	1	13,068	93	\$3,385.71	\$360.31	\$1,302.45	\$5,048.48
61	20-08A	RACINE, MICHAEL E	111	MARTIN ROAD	1	32,670	92	\$3,385.71	\$900.78	\$1,288.45	\$5,574.94
62	20-09	RICHARD II, GERALD C	117	MARTIN ROAD	1	19,602	100	\$3,385.71	\$540.47	\$1,400.49	\$5,326.67
63	20-10	RUSSELL, HENRY W	121	MARTIN ROAD	1	28,314	190	\$3,385.71	\$780.67	\$2,660.93	\$6,827.32

## 2015 KITTERY SEWER MAIN EXTENSION PROJECT

## BENEFITTED PROPERTY ASSESSMENT CALCULATION

Adopted: AUGUST 15, 2016

## UNIT BASIS

	A	B	C	D	E	F	G	H	I	J	K
11	Benefitted Parcel Data										
12	Map-Lot	Property Owner	Physical Address		Units	Area (Sq. Ft)	Frontage (LF)	Unit \$	Area \$	Frontage \$	Assessment Total
13											
64	20-12	CHICKERING CREEK APTS., LLC	25	ROUTE 236	7	76,230	61.62	\$23,700.00	\$2,101.82	\$862.98	\$26,664.80
65	20-13	GERRY, WALLACE W	27	ROUTE 236	1	34,848	120	\$3,385.71	\$960.83	\$1,680.59	\$6,027.13
66	20-14	DUMAS, ARTHUR P	31	ROUTE 236	1	41,382	139	\$3,385.71	\$1,140.99	\$1,946.68	\$6,473.38
67	20-17	LADY SLIPPER LLC	37	ROUTE 236	13	30,927	240	\$44,014.29	\$852.72	\$3,361.17	\$48,228.18
68	20-18	BURBANK, KAREN C	122	MARTIN ROAD	1	23,958	150	\$3,385.71	\$660.57	\$2,100.73	\$6,147.02
69	20-20	BEDARD, KIMBERLY B	100	MARTIN ROAD	1	28,314	125	\$3,385.71	\$780.67	\$1,750.61	\$5,917.00
70	20-22	FYNN, STEVE M	96	MARTIN ROAD	1	17,424	100	\$3,385.71	\$480.41	\$1,400.49	\$5,266.62
71	20-23	GOWEN, MARK	94	MARTIN ROAD	1	17,860	100.1	\$3,385.71	\$492.43	\$1,401.89	\$5,280.03
72	20-24	CENTRAL MAINE POWER CO	92	MARTIN ROAD	0	17,424	100	\$0.00	\$480.41	\$1,400.49	\$1,880.90
73	20-25	BICKLEY, DALE	88	MARTIN ROAD	1	15,246	101.2	\$3,385.71	\$420.36	\$1,417.29	\$5,223.37
74	20-26	LEWIS, KENNETH E	86A	MARTIN ROAD	2	15,246	100	\$6,771.43	\$420.36	\$1,400.49	\$8,592.28
75	20-36	MILLER, LINN G	6	ARMOUR DRIVE	1	15,246	158.4	\$3,385.71	\$420.36	\$2,218.37	\$6,024.45
76	20-37	MILLER, DOROTHY M	80	MARTIN ROAD	1	37,026	100.3	\$3,385.71	\$1,020.88	\$1,404.69	\$5,811.29
77	20-38	DELLAPIANA, RICHARD E	72	MARTIN ROAD	4	26,136	222.4	\$13,542.86	\$720.62	\$3,114.69	\$17,378.16
78	20-39	WEBB, LEOLA M	70	MARTIN ROAD	1	69,696	90	\$3,385.71	\$1,921.66	\$1,260.44	\$6,567.81
79	20-41	TAPLEY, STEPHEN W	108	MARTIN ROAD	1	45,302	151.54	\$3,385.71	\$1,249.08	\$2,122.30	\$6,757.09
80	20-41A	TAPLEY, MICHAEL H	2	COMMANDERS WAY	1	56,628	153	\$3,385.71	\$1,561.35	\$2,142.75	\$7,089.81
81	20-42	BUNKER, SHAUN P	112	MARTIN ROAD	2	80,150	170	\$6,771.43	\$2,209.91	\$2,380.83	\$11,362.17
82	21-01	WRIGHT, GLENNIS A	26	ROUTE 236	1	22,215	200	\$3,385.71	\$612.51	\$2,800.98	\$6,799.20
83	21-02	PATTEN, TR, SUZANNE R	22	ROUTE 236	1	204,296	202	\$3,385.71	\$5,632.86	\$2,828.99	\$11,847.56
84	21-03	DOW HIGHWAY PROPERTIES LLC	5	DANA AVENUE	25	150,718	508	\$84,642.86	\$4,155.59	\$7,114.48	\$95,912.92
85	21-04	HOWLAND JR, THOMAS H	11	DANA AVENUE	1	30,492	180.5	\$3,385.71	\$840.73	\$2,527.88	\$6,754.32
86	21-05	WENTWORTH, DAVID A	16	DANA AVENUE	1	19,602	98.8	\$3,385.71	\$540.47	\$1,383.68	\$5,309.86
87	21-06	CRESSEY, TR, ALMA	12	DANA AVENUE	2	45,738	235.4	\$6,771.43	\$1,261.09	\$3,296.75	\$11,329.27
88	21-07	DOW HIGHWAY PROPERTIES LLC	2-4	DANA AVENUE	10	102,802	508	\$33,857.14	\$2,834.45	\$7,114.48	\$43,806.07
89	21-18	GERASIN FAMILY REALTY LLC	1	ROUTE 236	2	564,538	286.15	\$6,771.43	\$15,565.44	\$4,007.50	\$26,344.37
90	21-18A	SHELL OIL CO	7	ROUTE 236	1	107,158	325	\$3,385.71	\$2,954.55	\$4,551.59	\$10,891.85
91	21-19	GAGNE REALTY HOLDINGS LLC	15	ROUTE 236	1	135,036	330	\$3,385.71	\$3,723.22	\$4,621.61	\$11,730.54

## UNIT BASIS

	A	B	C	D	E	F	G	H	I	J	K
11	Benefitted Parcel Data										
12	Map-Lot	Property Owner	Physical Address		Units	Area (Sq. Ft)	Frontage (LF)	Unit \$	Area \$	Frontage \$	Assessment Total
13											
92	21-19A	WILSON, DAVID W	11	ROUTE 236	1	37,207	230.65	\$3,385.71	\$1,025.87	\$3,230.23	\$7,641.81
93	21-21	GAGNE REALTY HOLDINGS LLC	21	ROUTE 236	0	28,314	200	\$0.00	\$780.67	\$2,800.98	\$3,581.65
94	29-01	LAPIERRE PROPERTIES LLC	41	ROUTE 236	0	163,350	495	\$0.00	\$4,503.89	\$6,932.42	\$11,436.31
95	29-02	CALDWELL, VIOLA F	140	MARTIN ROAD	1	37,026	170	\$3,385.71	\$1,020.88	\$2,380.83	\$6,787.43
96	29-03	WOJER, ELAINE	136	MARTIN ROAD	1	40,075	112.2	\$3,385.71	\$1,104.95	\$1,571.35	\$6,062.02
97	29-04	KING, VINCENT E	132	MARTIN ROAD	1	49,658	150	\$3,385.71	\$1,369.18	\$2,100.73	\$6,855.63
98	29-05	JENKINS, JAMES C	130	MARTIN ROAD	1	23,958	156	\$3,385.71	\$660.57	\$2,184.76	\$6,231.05
99	29-06	GALLO, JAMES	124	MARTIN ROAD	1	43,124	125	\$3,385.71	\$1,189.03	\$1,750.61	\$6,325.35
100	29-07	LEGER, RAYMOND	129	MARTIN ROAD	1	21,780	236	\$3,385.71	\$600.52	\$3,305.15	\$7,291.38
101	29-08	ELDRIDGE, KATHLEEN C	131	MARTIN ROAD	1	143,748	14	\$3,385.71	\$3,963.42	\$196.07	\$7,545.21
102	29-08A	MEROSOLA, PATRICIA S	139	MARTIN ROAD	1	13,068	80	\$3,385.71	\$360.31	\$1,120.39	\$4,866.42
103	29-08B	MEROSOLA, PATRICIA S	135	MARTIN ROAD	1	37,026	179	\$3,385.71	\$1,020.88	\$2,506.87	\$6,913.47
104	29-11	THEBERGE, DIANA L	143	MARTIN ROAD	1	10,890	45.1	\$3,385.71	\$300.26	\$631.62	\$4,317.59
105	29-13A	PUGLISI, JOSEPH C	1	STEVENSON ROAD	1	47,480	200	\$3,385.71	\$1,309.13	\$2,800.98	\$7,495.82
106	29-15	PORTER, MELISSA TURNER	3	STEVENSON ROAD	1	39,204	200	\$3,385.71	\$1,080.93	\$2,800.98	\$7,267.62
107	29-16	COOK, MICHELE A	7	STEVENSON ROAD	1	50,094	312.8	\$3,385.71	\$1,381.19	\$4,380.73	\$9,147.63
108	29-19	DONOVAN, LAURA	9	STEVENSON ROAD	1	10,890	59.3	\$3,385.71	\$300.26	\$830.49	\$4,516.46
109	29-20	HOLT, SUSAN C	15	STEVENSON ROAD	2	158,558	336	\$6,771.43	\$4,371.78	\$4,705.64	\$15,848.84
110	29-21	STARKEY, PATRICIA R	23	STEVENSON ROAD	1	26,136	100	\$3,385.71	\$720.62	\$1,400.49	\$5,506.82
111	29-22	GRIFFIN, NOLAN D	27	STEVENSON ROAD	4	52,272	142	\$13,542.86	\$1,441.24	\$1,988.69	\$16,972.79
112	29-22A	HABERMAN, BRYAN	25	STEVENSON ROAD	1	10,890	64	\$3,385.71	\$300.26	\$896.31	\$4,582.29
113	29-23	ZANGARI, TR, DOMINIC M	29	STEVENSON ROAD	1	23,958	125	\$3,385.71	\$660.57	\$1,750.61	\$5,796.89
114	29-24	KITTERY - SHAPLEIGH FIELD		STEVENSON ROAD	0	260,489	294	\$0.00	\$7,182.21	\$4,117.43	\$11,299.64
115	29-25	MERRILL, STUART O	38	STEVENSON ROAD	1	15,246	0	\$3,385.71	\$420.36	\$0.00	\$3,806.08
116	29-26	LEWIS, KENNETH E	36	STEVENSON ROAD	1	8,712	90	\$3,385.71	\$240.21	\$1,260.44	\$4,886.36
117	29-27	MASON, ROBERT	34	STEVENSON ROAD	1	13,068	100	\$3,385.71	\$360.31	\$1,400.49	\$5,146.51
118	29-28	PRESTON, DAVID A & JENNIFER L	30	STEVENSON ROAD	1	32,670	100	\$3,385.71	\$900.78	\$1,400.49	\$5,686.98
119	29-28A	POMERLEAU SR, BRIAN O	32	STEVENSON ROAD	1	13,068	100	\$3,385.71	\$360.31	\$1,400.49	\$5,146.51



## 2015 KITTELY SEWER MAIN EXTENSION PROJECT

## BENEFITTED PROPERTY ASSESSMENT CALCULATION

Adopted: AUGUST 15, 2016

## UNIT BASIS

	A	B	C	D	E	F	G	H	I	J	K
11	Benefitted Parcel Data										
12	Map-Lot	Property Owner	Physical Address		Units	Area (Sq. Ft)	Frontage (LF)	Unit \$	Area \$	Frontage \$	Assessment Total
13											
120	29-29	HANNIGAN, HARRY J	28	STEVENSON ROAD	1	23,958	100	\$3,385.71	\$660.57	\$1,400.49	\$5,446.77
121	29-30	HANNIGAN, HARRY J	26	STEVENSON ROAD	2	15,246	125	\$6,771.43	\$420.36	\$1,750.61	\$8,942.40
122	29-31	FLOWER COMPANY PROPERTIES INC	483	H L DOW HIGHWAY	0	1,300,702	551.6	\$0.00	\$35,862.97	\$7,725.09	\$43,588.07
123	29-31A	FLOWER COMPANY PROPERTIES INC	22	STEVENSON ROAD	0	42,253	225	\$0.00	\$1,165.00	\$3,151.10	\$4,316.10
124	29-32	NOONEY, JACQUELYN	18	STEVENSON ROAD	1	35,284	200	\$3,385.71	\$972.84	\$2,800.98	\$7,159.53
125	29-33	HAWKES, KATHRYN M	16	STEVENSON ROAD	1	24,829	150	\$3,385.71	\$684.59	\$2,100.73	\$6,171.04
126	29-34	STACY, AARON J	14	STEVENSON ROAD	1	13,068	150	\$3,385.71	\$360.31	\$2,100.73	\$5,846.76
127	29-34A	SMITH, STEPHEN M	12	STEVENSON ROAD	1	10,890	75	\$3,385.71	\$300.26	\$1,050.37	\$4,736.34
128	29-35	SMITH, STEPHEN C	10	STEVENSON ROAD	1	10,890	75	\$3,385.71	\$300.26	\$1,050.37	\$4,736.34
129	29-37	ROBINSON, CARLA J	4	STEVENSON ROAD	1	60,984	225	\$3,385.71	\$1,681.45	\$3,151.10	\$8,218.26
130	29-37A	PROVENCAL, RONALD D	8	STEVENSON ROAD	1	10,019	100	\$3,385.71	\$276.24	\$1,400.49	\$5,062.44
131	29-38	BDC ENTERPRISES, INC	2	STEVENSON ROAD	1	19,602	120	\$3,385.71	\$540.47	\$1,680.59	\$5,606.77
132	29-44	LAPIERRE PROPERTIES LLC	32	ROUTE 236	1	204,732	740.97	\$3,385.71	\$5,644.88	\$10,377.20	\$19,407.79
133	30-01-1	PEREZ, AARON	64	MANSON ROAD	1	13,068	108	\$3,385.71	\$360.31	\$1,512.53	\$5,258.55
134	30-01-2	MATTHEWS, NANCY	62	MANSON ROAD	1	30,928	109	\$3,385.71	\$852.74	\$1,526.53	\$5,764.98
135	30-02	MARTELL, JEFFREY J	24	DANA AVENUE	1	43,560	150	\$3,385.71	\$1,201.04	\$2,100.73	\$6,687.48
136	30-03	SAWTELLE, TR, ERWIN M	22	DANA AVENUE	1	26,136	111	\$3,385.71	\$720.62	\$1,554.54	\$5,660.88
137	30-04	SHARP, JARED M	18	DANA AVENUE	1	43,560	200	\$3,385.71	\$1,201.04	\$2,800.98	\$7,387.73
138	30-05	STOODLEY JR, ROBERT P	13	DANA AVENUE	1	30,492	115	\$3,385.71	\$840.73	\$1,610.56	\$5,837.00
139	30-06	DODGE, DAVID A	15	DANA AVENUE	1	26,136	100	\$3,385.71	\$720.62	\$1,400.49	\$5,506.82
140	30-07	PIERCE, PATRICK B	17	DANA AVENUE	1	23,958	100	\$3,385.71	\$660.57	\$1,400.49	\$5,446.77
141	30-08	GARDNER, SCOTT T	19	DANA AVENUE	1	23,958	100	\$3,385.71	\$660.57	\$1,400.49	\$5,446.77
142	30-09	MOULTON, TR, DEBRA M	21	DANA AVENUE	1	15,246	105	\$3,385.71	\$420.36	\$1,470.51	\$5,276.59
143	30-10	GARDNER, ETHEL V	50	MANSON ROAD	1	17,424	116	\$3,385.71	\$480.41	\$1,624.57	\$5,490.70
144	30-11	CERCONE, MICHAEL K	48	MANSON ROAD	1	71,003	107.25	\$3,385.71	\$1,957.70	\$1,502.02	\$6,845.43
145	30-12	DENAULT, ROBERT L F	46	MANSON ROAD	1	6,970	60	\$3,385.71	\$192.17	\$840.29	\$4,418.18
146	30-12A	SANBORN, KIMBERLY	44	MANSON ROAD	1	198,634	50	\$3,385.71	\$5,476.73	\$700.24	\$9,562.69
147	30-13	RICHARDSON, BURTON J	42	MANSON ROAD	1	145,490	330.84	\$3,385.71	\$4,011.46	\$4,633.37	\$12,030.55

	A	B	C	D	E	F	G	H	I	J	K
11	Benefitted Parcel Data										
12	Map-Lot	Property Owner	Physical Address		Units	Area (Sq. Ft)	Frontage (LF)	Unit \$	Area \$	Frontage \$	Assessment Total
13											
148	30-14	GILL, BARBARA A	38	MANSON ROAD	1	87,120	380	\$3,385.71	\$2,402.07	\$5,321.85	\$11,109.64
149	30-15	YOUNG, ALFRED S	32	MANSON ROAD	1	54,450	190	\$3,385.71	\$1,501.30	\$2,660.93	\$7,547.94
150	30-16	LEONTAKIANAKOS, LOUIS P	28	MANSON ROAD	1	8,712	92	\$3,385.71	\$240.21	\$1,288.45	\$4,914.37
151	30-17	LINSCOTT, DAVID H	24	MANSON ROAD	1	45,738	143	\$3,385.71	\$1,261.09	\$2,002.70	\$6,649.50
152	30-18	LINSCOTT, DAVID H	42	STEVENSON ROAD	1	15,246	142	\$3,385.71	\$420.36	\$1,988.69	\$5,794.77
153	30-20	WALDRON, MEGAN T	23	MANSON ROAD	1	10,454	85	\$3,385.71	\$288.25	\$1,190.41	\$4,864.38
154	30-21	LACLAIR, THELMA J	25	MANSON ROAD	1	28,314	133	\$3,385.71	\$780.67	\$1,862.65	\$6,029.04
155	30-22	ESTES, ALAN W	29	MANSON ROAD	1	60,984	68.2	\$3,385.71	\$1,681.45	\$955.13	\$6,022.30
156	30-22A	AMSDEN, NATHAN C	27	MANSON ROAD	1	17,424	129.4	\$3,385.71	\$480.41	\$1,812.23	\$5,678.36
157	30-23	WENCK, ALFRED J	33	MANSON ROAD	1	30,492	134.9	\$3,385.71	\$840.73	\$1,889.26	\$6,115.70
158	30-24	MARTINO, JILLIAN R	35	MANSON ROAD	1	43,560	115	\$3,385.71	\$1,201.04	\$1,610.56	\$6,197.31
159	30-25	GREENWOOD, MEGAN D F	2	APPEGATE LANE	1	141,570	390	\$3,385.71	\$3,903.37	\$5,461.90	\$12,750.99
160	30-26	SPINNEY, IRENE J	49	MANSON ROAD	1	65,776	331.11	\$3,385.71	\$1,813.57	\$4,637.16	\$9,836.44
161	30-27	HEDRICK, DALE C	51	MANSON ROAD	1	28,314	120	\$3,385.71	\$780.67	\$1,680.59	\$5,846.97
162	30-28	CERCONE, ANTONIO	53	MANSON ROAD	1	13,068	99.9	\$3,385.71	\$360.31	\$1,399.09	\$5,145.11
163	30-29	FLETCHER, SHAWN M	55	MANSON ROAD	1	13,068	99.87	\$3,385.71	\$360.31	\$1,398.67	\$5,144.69
164	30-36	MARINO, ADAM	57	MANSON ROAD	1	17,424	130	\$3,385.71	\$480.41	\$1,820.63	\$5,686.76
165	30-37	HUTCHINS, RONALD D	59	MANSON ROAD	1	15,246	114.69	\$3,385.71	\$420.36	\$1,606.22	\$5,412.30
166	30-38	AVERY, JACOB W	61	MANSON ROAD	2	19,602	151	\$6,771.43	\$540.47	\$2,114.74	\$9,426.63
167	30-39	CLARK, SHARON A	63	MANSON ROAD	2	370,260	125	\$6,771.43	\$10,208.82	\$1,750.61	\$18,730.86
168	37-03	KITTERY - SHAPLEIGH SCHOOL	20	MANSON ROAD	1	239,580	374	\$3,385.71	\$6,605.71	\$5,237.82	\$15,229.24
169	Totals				210	12,893,505	25,384	\$711,000	\$355,500	\$355,500	\$1,422,000
170	<b>Note 1:</b> Property owner, address, map & lot number, number of units, square footage, and frontage information provided by the Kittery Assessor's Office as of 08/02/16 .										
171	<b>Note 2:</b> The number of units is based on a per-dwelling-unit basis for the residential zone and a per-unit-of occupancy basis in the commercial and business zones.										
172	<b>Note 3:</b> Map-Lot Parcels 29-37A; 29-35; 29-34A; 20-17; and, 11-29 are determined to not have gravity flow to the main extension line. Map 29 Lot 01 is to be determined										
173	<b>Note 4:</b> All listed parcels are deemed benefitted by new sewer main pipeline access stubs installed onto the properties and capped off for future connection.										
174	<b>This document satisfies the requirements of Town Code Title 13, §1.4.3.5, Record of Location of Sewer Line—Notification of Owner, for a statement of the amount</b>										
175	<b>assessed upon each lot or parcel of land so assessed and the name of the owner of the lots or parcels of land or person against whom the assessment is made.</b>										



**RTC ENCLOSURE 2**  
**Payment Plan Model Agreement Documents**

Assessment Mortgage, Promissory Note, & Installment Payment Plan Models

TOWN of KITTERY

**SEWER MAIN EXTENSION ASSESSMENT MORTGAGE AGREEMENT**

Date: \_\_\_\_\_

In re:

Town of Kittery Assessors Map # \_\_\_\_\_ Lot # \_\_\_\_\_, recorded in:

Book \_\_\_\_\_, Page \_\_\_\_\_ York County Registry of Deeds

**MORTGAGE AGREEMENT**

\_\_\_\_\_ and \_\_\_\_\_, [hereinafter referred to as "Owner"] both of \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_, whose mailing address is \_\_\_\_\_, \_\_\_\_\_,

for consideration hereby acknowledged, grant to in whole or in part, the TOWN of KITTERY, a municipal corporation duly organized under the laws of the State of Maine, of Kittery, York County, Maine, whose mailing address is 200 Rogers Road, Kittery, ME 03904, with

MORTGAGE COVENANTS, to secure the payment of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred \_\_\_\_\_ and xx/100 Dollars (\$x,xxx.xx USD) at two percent (2.0%) interest per annum to secure the deferred payment of a certain sewer assessment all as provided in the Sewer Assessment

Promissory Note and Installment Payment Agreement dated \_\_\_\_\_, the land together with improvements thereon located at \_\_\_\_\_, Kittery, in the County of York and State of Maine, and more fully described and shown on the Town of Kittery Assessor's Tax Map # \_\_\_\_\_, as Lot # \_\_\_\_\_, and further described in Book \_\_\_\_\_, Page \_\_\_\_\_ of the York County Registry of Deeds.

This Mortgage is upon the statutory condition for any breach of which the Mortgage shall have the remedies provided by law.

**IN WITNESS WHEREOF**, the Town has authorized its Tax Collector representing the Town to sign this Agreement and Owner has approved the Agreement and signed as of the date first noted above.

**TOWN:** \_\_\_\_\_ **BY:** \_\_\_\_\_  
[Name] [Title] [Address] [Town, State, Zip Code] [Signature]

**WITNESS:** \_\_\_\_\_

**OWNER:** \_\_\_\_\_ **BY:** \_\_\_\_\_  
[Name] [Address] [Town, State, Zip Code] [Signature]

**WITNESS:** \_\_\_\_\_

**PROMISSORY NOTE & INSTALLMENT PAYMENT AGREEMENT**

**1. PROMISE TO PAY.**

In consideration of the construction of a sewer line by the Town of Kittery [hereinafter referred to as "Town"] which benefits the property referenced in the Mortgage Agreement, dated \_\_\_\_\_, incorporated herein by reference, against the property of the Owner shown therein, as provided by law, Owner promises to pay to the TOWN of KITTERY the principal sum of \_\_\_\_\_ Thousand \_\_\_\_\_ Hundred \_\_\_\_\_ and xx/100 Dollars (\$x,xxx.xx USD), together with interest on the unpaid outstanding balance at the rate of two percent (2.0%) per annum calculated as from \_\_\_\_\_.

**2. INSTALLMENT PAYMENT TERMS.** *Owner agrees to pay the entire principal and interest as follows: consecutive monthly installments of \$62.34 beginning on November 01, 2016 for a period of 119 months, and a last of payment of \$62.24 due on October 01, 2026; thereafter, NO consecutive monthly installments of \$0 beginning on date, all according to a 120-month amortization schedule, annexed hereto and made a part hereof, with a final payment due and payable on October 01, 2026 in the amount of \$0. Any amount remaining due, if not sooner paid, is due and payable on October 01, 2016.*

**ADDITIONAL TERMS AND CONDITIONS**

**1. CALCULATION OF INTEREST.**

In this Agreement, the interest is computed as simple interest on the outstanding principal.

**2. PREPAYMENT.**

The right to pay the whole outstanding amount of this Agreement and Note at any time, before it is paid in full under the terms and conditions herein, is available to the Owner hereof without any prepayment penalty.

**3. DISCHARGE.**

Owner is responsible for mortgage discharge recording fees. Upon collection of said fee the Town is responsible to effect said discharge.

**4. ACCELERATION AND DEFAULT.**

Owner will be in default of this Agreement and Note if for any reason any payment is not made on time as provided herein, or if Owner breaks any promises or agreements in this Agreement and Note.

If Owner is in default, the Town can demand immediate payment of the entire unpaid balance after Owner is given written notice of such default sent to the address of the Owner as provided herein.

Owner understands that failure to pay any installment within fifteen (15) days after written notice from the Town that the same is in default, the Town may pursue any and all other available legal remedies for the collection.

Interest at the rate herein provided continues to accrue on the unpaid balance.

## Assessment Mortgage, Promissory Note, & Installment Payment Plan Models

### 5. BINDING.

This Agreement and Note is binding on Owner, its successors, heirs, and assigns, and anyone to whom it might assign its obligations [this does not give Owner the right to assign this obligation].

### 6. PROPERTY TRANSFER.

The outstanding balance of this Agreement and Note becomes due and payable in full if the property which secures this Agreement and Note is transferred to any other owner by gift, assignment, devise, sale, or otherwise, except for:

- A. Transfers to a spouse or joint tenant, living or surviving, provided the transferee executes a new Mortgage Agreement, Promissory Note and Installment Payment agreement with the Town.
- B. Transfers to trusts, providing the trustee executes a new Mortgage Agreement, Promissory Note and Installment Payment agreement with the Town.

### 7. SEVERABILITY.

If any part of this Agreement and Note is found unenforceable by the Courts, the remaining parts remain in full force and effect.

### 8. WAIVER OF DEFAULT.

If the Town chooses to waive a default once, that does not mean that the Town will or must waive any subsequent default. It only means that if the undersigned Owner fails to comply with any obligations but the Town allows Owner to correct the default or to continue with this Agreement and Note, Owner cannot claim that the Town has given up the right to require Owner to comply in the future.

### 9. COMPLETE AGREEMENT, AGREEMENT MODIFICATIONS.

This Agreement and Note is the complete agreement between the Town and Owner. Any change in the terms of this Agreement and Note must be in writing and signed by all parties. No oral agreements, in addition or contradictory to, the terms of this Agreement and Note are binding.

### 10. ENFORCEMENT.

In the event it becomes necessary for the Town to enforce this Agreement and Note by resorting to legal action, the Town is entitled to recover all reasonable costs including attorney's fees.

### 11. NOTICE.

Any notices required to be sent regarding this matter must be mailed to:

Owner:

Town:

Name: \_\_\_\_\_ and \_\_\_\_\_ Town Manager

Address: \_\_\_\_\_ 200 Rogers Road

Kittery, ME 03904

Executed at Kittery, Maine, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Assessment Mortgage, Promissory Note, & Installment Payment Plan Models**

108 **IN WITNESS WHEREOF**, the Town has authorized its Tax Collector representing the Town to  
109 sign this Agreement and Owner has approved the Agreement and signed as of \_\_\_\_\_.

110 **TOWN:** \_\_\_\_\_ **BY:** \_\_\_\_\_  
111 [Name] [Title] [Address] [Town, State, Zip Code] [Signature]

112 **WITNESS:** \_\_\_\_\_

113 **OWNER:** \_\_\_\_\_ **BY:** \_\_\_\_\_  
114 [Name] [Address] [Town, State, Zip Code] [Signature]

115 **WITNESS:** \_\_\_\_\_

116 **STATE OF MAINE**  
117 **YORK, ss.**

118 Dated: \_\_\_\_\_

119 Then personally appeared before me the above-named \_\_\_\_\_ and  
120 \_\_\_\_\_, and acknowledged the foregoing instrument to be their  
121 free act and deed,  
122 Before me,

123 \_\_\_\_\_

124 **Notary Public**  
125 My Commission expires on \_\_\_\_\_

126 **Appendix: Amortization Schedule**

127 The formal amortization schedule will be created in the Town's MUNIS accounting software  
128 when the mortgage and note plan is set up. The spreadsheet tool is for owners to examine their  
129 plan options before making arrangements with the town. Minor differences occur between the  
130 two periodically (pennies). Payment plans will be set for quarterly payments a month off from  
131 the quarterly user bills.

## Assessment Plan Amortization Schedule - OWNER WORKSHEET

### FILL IN THE YELLOW CELLS

Enter values	
Payment Plan amount	\$6,775.16
Annual interest rate	2.00 %
Loan period in years	18
# of payments per year	4
Start date of loan	10/1/2016
Optional extra payments	\$ -

Loan summary	
Scheduled payment	\$ 112.28
Scheduled number of payments	72
Actual number of payments	72
Total early payments	\$ -
Total interest	\$ 1,309.29

Annex to Payment Plan Agreement for:

Holder name: **Town Of Kittery**

Owner(s):

**THE FORMAL AMORTIZATION SCHEDULE WILL BE CREATED IN THE TOWN'S MUNIS ACCOUNTING SOFTWARE WHEN THE MORTGAGE AND NOTE PLAN IS SET UP. THIS TOOL IS FOR OWNERS TO EXAMINE THEIR PLAN OPTIONS BEFORE MAKING ARRANGEMENTS WITH THE TOWN. MINOR DIFFERENCES OCCUR BETWEEN THE TWO PERIODICALLY (PENNIES).**

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	1/1/2017	6,775.16	112.28	-	112.28	78.41	33.88	6,696.75	33.88
2	4/1/2017	6,696.75	112.28	-	112.28	78.80	33.48	6,617.95	67.36
3	7/1/2017	6,617.95	112.28	-	112.28	79.19	33.09	6,538.76	100.45
4	10/1/2017	6,538.76	112.28	-	112.28	79.59	32.69	6,459.17	133.14
5	1/1/2018	6,459.17	112.28	-	112.28	79.99	32.30	6,379.18	165.44
6	4/1/2018	6,379.18	112.28	-	112.28	80.39	31.90	6,298.79	197.33
7	7/1/2018	6,298.79	112.28	-	112.28	80.79	31.49	6,218.00	228.83
8	10/1/2018	6,218.00	112.28	-	112.28	81.19	31.09	6,136.81	259.92
9	1/1/2019	6,136.81	112.28	-	112.28	81.60	30.68	6,055.21	290.60
10	4/1/2019	6,055.21	112.28	-	112.28	82.01	30.28	5,973.20	320.88
11	7/1/2019	5,973.20	112.28	-	112.28	82.42	29.87	5,890.78	350.74
12	10/1/2019	5,890.78	112.28	-	112.28	82.83	29.45	5,807.95	380.20
13	1/1/2020	5,807.95	112.28	-	112.28	83.24	29.04	5,724.71	409.24
14	4/1/2020	5,724.71	112.28	-	112.28	83.66	28.62	5,641.05	437.86
15	7/1/2020	5,641.05	112.28	-	112.28	84.08	28.21	5,556.97	466.07
16	10/1/2020	5,556.97	112.28	-	112.28	84.50	27.78	5,472.47	493.85
17	1/1/2021	5,472.47	112.28	-	112.28	84.92	27.36	5,387.55	521.21
18	4/1/2021	5,387.55	112.28	-	112.28	85.35	26.94	5,302.20	548.15
19	7/1/2021	5,302.20	112.28	-	112.28	85.77	26.51	5,216.43	574.66
20	10/1/2021	5,216.43	112.28	-	112.28	86.20	26.08	5,130.23	600.75
21	1/1/2022	5,130.23	112.28	-	112.28	86.63	25.65	5,043.59	626.40
22	4/1/2022	5,043.59	112.28	-	112.28	87.07	25.22	4,956.53	651.61
23	7/1/2022	4,956.53	112.28	-	112.28	87.50	24.78	4,869.03	676.40
24	10/1/2022	4,869.03	112.28	-	112.28	87.94	24.35	4,781.09	700.74
25	1/1/2023	4,781.09	112.28	-	112.28	88.38	23.91	4,692.71	724.65
26	4/1/2023	4,692.71	112.28	-	112.28	88.82	23.46	4,603.89	748.11
27	7/1/2023	4,603.89	112.28	-	112.28	89.26	23.02	4,514.62	771.13
28	10/1/2023	4,514.62	112.28	-	112.28	89.71	22.57	4,424.91	793.70
29	1/1/2024	4,424.91	112.28	-	112.28	90.16	22.12	4,334.75	815.83
30	4/1/2024	4,334.75	112.28	-	112.28	90.61	21.67	4,244.14	837.50
31	7/1/2024	4,244.14	112.28	-	112.28	91.06	21.22	4,153.08	858.72
32	10/1/2024	4,153.08	112.28	-	112.28	91.52	20.77	4,061.56	879.49
33	1/1/2025	4,061.56	112.28	-	112.28	91.98	20.31	3,969.59	899.80
34	4/1/2025	3,969.59	112.28	-	112.28	92.44	19.85	3,877.15	919.64



**RTC ENCLOSURE 3**  
**Other Appeal Model Documents**



**TOWN OF KITTERY**  
**CODE ENFORCEMENT OFFICE**  
200 ROGERS ROAD, KITTERY, MAINE 03904  
PHONE: (207) 475-1305  
FAX: (207) 439-6806

*Application to the*  
**BOARD OF APPEALS**

DATE SUBMITTED	
MAP & LOT	
ASA FEE	
DATE PAID	
DATE COMPLETE	
HEARING DATE	

**UNBUILDABLE LOT APPEAL**

I have reviewed Town Code Title 13 & Title 16, Board of Appeals By-Laws, and the Ordinance(s) pertinent to this application. My request is based on Title 13, Section 13.2.2, Unbuildable Lot Appeals

**IN ORDER FOR AN APPLICATION TO BE DETERMINED COMPLETE AND SCHEDULED FOR A PUBLIC HEARING:  
APPLICATION FORMS MUST BE COMPLETE; 10 SETS OF DOCUMENTATION PROVIDED; & ALL FEE(S) PAID**

PROPERTY INFORMATION									
ADDRESS									
MAP		LOT #		LOT SIZE (sq. ft.)					
STREET FRONTAGE			TOWN TAX RECORD ACCOUNT #:	(ATTACH COPY)					
<b>PROPERTY OWNER: I have right, title or interest in the affected property, or issue, as shown by:</b>									
NAME(S)									
MAILING ADDRESS									
CITY		STATE		ZIP CODE					
PHONE No.			e-MAIL:						

**NOTE:** You may have an attorney represent you, but such representation is not necessary. You may also be represented by a designated agent (e.g. family member, neighbor, engineer, contractor) as you so desire.

<b>APPLICANT (if different) I am an agent of the applicant with standing, as shown by:</b>					
NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

Definitions applicable to Unbuildable Lots are:

**Unbuildable** means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

**Zoning** means any land use and development statute, ordinance, rule, or regulation promulgated by a federal, state, or local government or agency.

Filed applications must be accompanied by a written statement from the Code Enforcement Officer and Town Planner regarding whether the involved property is developable as defined in Title 13.

**Describe the general nature of your unbuildable lot:**


To the best of my knowledge, all information submitted on and with this application is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Signature)

(Print Name)

**AFFIRMATIONS** (Please read and check all the boxes to confirm)

**I UNDERSTAND THAT THE BOARD OF APPEALS:**

- ☐ Appears to have jurisdiction to hear this appeal; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.
- ☐ Will conduct this hearing De Novo (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with this Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).
- ☐ Will determine my Burden of Proof:
- 1) What does the ordinance/statute require the applicant to prove?
  - 2) Does the ordinance/statute prohibit or limit the type of use being proposed?
  - 3) What factors must be considered under ordinance/statutes to decide whether to grant the request?
  - 4) Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?
- ☐ Requires substantial evidence as the Standard of Review for this request, meaning:
- "More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.*
- ☐ May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Sections 6.6.1, Factors, and 6.6.2, Considerations; and may consider other Title 16 standards.
- ☐ Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the Town is responsible for enforcing.
- ☐ Is only legally authorized to deal with issues arising from the list above, and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.
- ☐ Will not even hear my appeal unless I can show that I have "standing" to have my request heard.
- ☐ Purpose of establishing my case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.
- ☐ Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.
- ☐ Tries to make decisions it believes would be upheld if appealed to Superior Court.

**STATEMENTS:**

I wish to appeal to the Board of Appeals because I have a problem in regard to a matter of Town Code Title 13, Public Services and/or the 2016 adopted Assessment Plan which considers my property to be benefited and liable for an Assessment Fee, whereas the following shows that the parcel is unbuildable according to Town Code Title 16.

The Assessment Plan data/decision I object to is [Include formal documents related to the matter]:

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I object to the decision for the following reason(s):

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Unlike other affected property owners, I will suffer a particularized injury in this matter if not resolved in my favor. I am adversely and directly affected by:

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What relief is requested and why should the appeal be granted?

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**Additional Information**

1. Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Board of Appeals.

[Support with citations(s), of pertinent ordinance(s), deeds, maps, documents, etc. Describe in detail what decision you are appealing; the date on which the decision was made; and, by whom, the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the Board to take in this matter. Also, please indicate how that Panel/Board's decision will affect you and/or your property. Use extra sheets if necessary and attach them to this application.]

2. A detailed plot plan or diagram must be provided showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic features (wetlands, streams, etc.) of the lot in question. This plot plan should show the detail of any rights-of-way, easements, or other encumbrances. A copy of the Town Property Tax Record must be provided.

3. Blueprints, surveys, photos and other documents may be helpful in explaining your request and should be included.



**TOWN OF KITTERY**  
**CODE ENFORCEMENT OFFICE**  
200 ROGERS ROAD, KITTERY, MAINE 03904  
PHONE: (207) 475-1305  
FAX: (207) 439-6806

*Application to the*  
**BOARD OF APPEALS**

DATE SUBMITTED	
MAP & LOT	
ASA FEE	
DATE PAID	
DATE COMPLETE	
HEARING DATE	

**ADMINISTRATIVE APPEAL**

I hereby request the Board consider an Administrative Appeal as I contest the interpretation or application of ordinance / regulation, and seek relief from the: *(CHECK ONLY ONE)*

☐ DECISION

☐

LACK OF ACTION

of the following individual(s):

- ☐ Town Council  
☐ Town Manager  
☐ Tax Collector  
☐ Town Clerk

- ☐ Tax Assessor  
☐ Sewer Superintendent  
☐ Public Works Commissioner  
☐ Chief of Police

- ☐ Fire Chief  
☐ Town Planner  
☐ General Assistance Administrator  
☐ Other *(Specify)*

I have reviewed Town Code Title 13 & Title 16, Board of Appeals By-Laws, and the Ordinance(s) pertinent to this application. My appeal is based on the following:

TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	

**IN ORDER FOR AN APPLICATION TO BE DETERMINED COMPLETE AND SCHEDULED FOR A PUBLIC HEARING:  
APPLICATIONS FORMS MUST BE COMPLETE; 10 SETS OF DOCUMENTATION PROVIDED; & ALL FEE(S) PAID**

**PROPERTY INFORMATION**

ADDRESS											
MAP		LOT #		LOT SIZE							
BASE ZONE(S):				OVERLAY ZONE(S):							
<b>The subject property:</b> [ is / is not ] in a Shoreland overlay or Resource Protection zone; [ is / is not ] in a floodplain; AND [ does / does not ] have outstanding code violations; and, if so, granting this appeal provides resolution .											
<b>PROPERTY OWNER: I have right, title or interest in the affected property, or issue, as shown by:</b>											
NAME(S)											
MAILING ADDRESS											
CITY		STATE		ZIP CODE							
PHONE No.				e-MAIL:							

**NOTE:** You may have an attorney represent you, but such representation is not necessary. You may also be represented by a designated agent (e.g. family member, neighbor, engineer, contractor) as you so desire.

**APPLICANT (if different) I am an agent of the applicant with standing, OR, I am an aggrieved party in the subject property, or issue, as shown by:**

NAME(S)											
MAILING ADDRESS											
CITY		STATE		ZIP CODE							
PHONE No.				e-MAIL:							

To the best of my knowledge, all information submitted on and with this application is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_

*(Signature)*

*(Print Name)*

**AFFIRMATIONS***(Please read and check all the boxes to confirm)***I understand that the Board of Appeals:**

- ☐ May hear and decide on an Administrative Appeal within the limitations set forth in Title 16, Section 6.4.1, Administrative Decision Appeal.
- ☐ Appears to have jurisdiction to hear this request; hearing must be held within 30 days of this Appeal filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.
- ☐ Role for administrative appeals is to examine and resolve problems between the Town and those affected by its ordinances, decisions or lack of action by the Town.
- ☐ Is only legally authorized to deal with issues arising from the list above, and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.
- ☐ Will not even hear my appeal unless I can show that I have "standing" to have my complaint heard.
- ☐ Purpose of establishing my case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.
- ☐ Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.
- ☐ Tries to make decisions it believes would be upheld if appealed to Superior Court.
- ☐ Local appeals process must be exercised and exhausted before the Superior Court will hear these cases.
- ☐ Will conduct this hearing De Novo (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with this Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).
- ☐ Will determine the Standard of Review for this appeal:

For questions of mixed law and fact, a review for "arbitrary and capricious" factors:

- 1) Was the decision/lack of action a "plain error" which led to a "brazen miscarriage of justice?"
- 2) Was the decision/lack of action made on "unreasonable grounds", or "without any proper consideration of circumstances"?
- 3) Does any State or Federal law apply to my circumstances?
- 4) Is there any conflict between ordinances and/or statutes related to the issues?
- 5) Can the Board determine with a "definite and firm conviction" that a mistake was committed by the Town?

When questions of statutory interpretation decided in a manner that has the force of law, a "Chevron review":

- 1) First, always, is the question whether the legislative enacting body has directly spoken to the precise question at issue.
- 2) If the intent is clear, that is the end of the matter; for the Board, as well as the Town, must give effect to the unambiguously expressed intent of the legislation.
- 3) If, however, the Board determines the enacting body has not directly addressed the precise question at issue, the Board does not simply impose its own construction on the statute. If the statute or ordinance is silent or ambiguous with respect to the specific issue, the question for the Board is whether the Town's answer is based on a permissible construction of the statute.

For questions of statutory interpretation decided in a manner that does not have the force of law, to determine the deference to be given to the Town decision based on a four-part test:

- 1) the thoroughness of the Town's investigation;
  - 2) the validity of its reasoning;
  - 3) the consistency of its interpretation over time; and
  - 4) other persuasive powers of the Town.
- ☐ Will determine my Burden of Proof:
    - 1) What does the ordinance/statute require me to prove?
    - 2) Does the ordinance/statute prohibit or limit the type of use being proposed?
    - 3) What factors must be considered under ordinance/statutes to decide whether to grant the appeal?
    - 4) Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?



**STATEMENTS:**

I wish to appeal to the Board of Appeals because I have a problem in regard to a matter of Town Code Title 13, Public Services: (Section, Title, Page No.) \_\_\_\_\_

The decision/lack of action I object to is [Include formal documents related to the matter]:

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What relief is requested and why should the appeal be granted?

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Unlike others in the community, I will suffer a particularized injury in this matter if not resolved in my favor. I am adversely and directly affected by:

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I object to the decision / lack of action for the following reason(s):

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**Additional Information**

1. Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Board of Appeals.

[Support with citations(s), of pertinent ordinance(s), deeds, maps, documents, etc. Describe in detail what decision you are appealing; the date on which the decision was made; and, by whom, the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the Board of Appeals to take in this matter. Also, please indicate how that Board’s decision will affect you and/or your property. Use extra sheets if necessary and attach them to this application.]
2. A detailed plot plan or diagram must be provided showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic features (wetlands, streams, etc) of the lot in question. This plot plan should also include the distances to the nearest structures on abutting properties and show the detail of any rights-of-way, easements, or other encumbrances.
3. Blueprints, surveys, photos and other documents may be helpful in explaining your request and should be included.

**RTC ENCLOSURE 4**  
**Town Clerk Hearing Order of Notice Model**  
**Documents**



**TOWN OF KITTERY MAINE**  
**TOWN CLERK'S OFFICE**  
200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1328 Fax: (207) 439-6806

**AUTHENTICATED COPY OF ASSESSMENT AND HEARING ORDER**  
**OF NOTICE OF SEWER ASSESSMENT**

«Title» «Name»  
«Mailing\_Address»  
«City», «State\_» «Zip»

Re: Town of Kittery 2015 Sewer Main Extension Project Assessment Plan

Dear «Title» «Lname»,

The subject Assessment Plan adopted by the Town Council on August 15<sup>th</sup>, 2016, lists all parcels deemed as benefitted by the new sewer main pipeline with access stubs installed to the properties and capped off for future connection, including yours. Owners of the properties designated as benefitted in this Assessment Plan are obliged to pay an assessment fee.

The Kittery Tax Assessor records show that your property at Tax Map-Lot [ «MapLot» ]; with street address at [ «Str\_addr2» ]; is classified as [ «LND\_OCC\_DESC» ] with [ «M\_Units» ] unit(s) of occupancy; an area of [ «AreaSqFt» ] square feet; and, frontage of [ «FrontageLF» ] linear feet along a public way of the sewer main.

The amount calculated and assessed for your property as shown in the Plan calculations is:

<b>Unit</b>	<b>Area</b>	<b>Frontage</b>	<b>TOTAL</b>
<b><u>\$ / parcel</u></b>	<b><u>\$ / sq. ft.</u></b>	<b><u>\$ / l. ft.</u></b>	<b><u>ASSESSED</u></b>
<b>«Unit»«Area»</b>	<b>«Frontage»</b>	<b>«Assessment»</b>	

Enclosed please find copies of the Council-adopted Plan (*encl 1*) and the required Project Map (*encl 2*). Please review those details carefully with regard to your property. The complete Assessment calculations are available on the Town website and at my office.

Each assessed property owner “*is to be notified of the assessment by having an authentic copy of the assessment, with an order of notice signed by the clerk of the Town stating the time and place for a hearing upon the subject matter of the assessments, given to each person so assessed or left at their usual place of abode in the Town.*”, and these materials satisfy that requirement.

You have the right to request an individual hearing on your assessment by the Town Council. At this hearing, you may present any testimony concerning the subject matter of this assessment. The Council has the power to revise, increase, or diminish, any assessment. An initial hearing date is scheduled for Monday, September 19, 2016, beginning at 6:00pm, in Council Chambers at Town Hall. Dependent upon the number of requests for hearings, additional dates may be scheduled.

If you are not satisfied with the amount of assessment, you also may appeal within ten (10) days of receipt of this letter, to the established Arbitrator panel pursuant to 30-A MRS §3443, Arbitration of assessment, as noted in the Plan.

As you will also see in the adopted Assessment Plan, in accordance with Town Code Title 13:

- Section 1.1.11C: If gravity flow of wastewater cannot be obtained at your parcel, connection to the public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should you wish install such a system.
- Section 1.1.11D If you have had a septic tank and leach field system installed within the past ten (10) years of the main extension project completion date of May 03, 2016, you may request to the Town Manager for deferral of connection until the system has reached the ten-years after installation anniversary.
- Section 1.4.3.6A: Land, classified and restricted for use for agricultural, forest/woodland, open space or wildlife habitat purposes as defined by 36, M.R.S. §1102, is exempt from the assessment when no benefits are derived from the common sewer or drain. If you believe that your land qualifies for this exemption, you must notify the municipal officers that your property may qualify for this exemption.
- Section 1.4.4B: The tax collector may enter into a written Mortgage, Promissory Note & Installment Payment Plan agreement for payment of your assessment if you wish. The agreement is to provide for payment to the Town over a period not to exceed eighteen (18) years at an interest rate of two percent (2%). In the event you wish to pay this assessment in periodic installments, you may contact the tax collector to make appropriate arrangements and sign any necessary documents containing the terms and provisions of such periodic payments. Persons denied a Payment Plan by the tax collector may file an Administrative Decision appeal to the Board of Appeals on such decisions.
- Section 1.4.4C: Owners with household income less than or equal to 50% of the local Area Median Family Income (AMFI) (shown following), as determined annually by the US Department of Housing and Urban Development and varied by household size, may request deferral of payment of the assessment without penalty or additional interest incurred for the period of eligibility.

**KITTERY town - 2016 - 50% AMFI THRESHOLDS X HOUSEHOLD SIZE:**

<b>1 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>	<b>5 Person</b>	<b>6 Person</b>	<b>7 Person</b>	<b>8 Person</b>
\$29,500	\$33,700	\$37,900	\$42,100	\$45,500	\$48,850	\$52,250	\$55,600

- If you believe your parcel to be “unbuildable”, as defined in Town Code Title 13 Section 2.2, Unbuildable Parcel Appeals, you may also file an appeal with the Board of Appeals as explained in that section of Town Code.

Hearing Request and Appeal forms are available at my office and if you have any questions concerning your assessment, or need additional details, please contact the Tax Collector at the Town Hall at 207-475-1329

Dated in Kittery, Maine this\_\_\_\_\_ day of August, 2016.

Respectfully,

MARYANN PLACE  
Town Clerk

**2 enclosures - 2015 Sewer Extension Project:**

1. Maine Extension Assessment Plan, adopted 08-15-16
2. Main Extension Project Map



**TOWN OF KITTERY**  
**OFFICE OF THE TOWN CLERK**  
200 ROGERS ROAD, KITTERY, MAINE 03904  
PHONE: (207) 475-1309  
FAX: (207) 439-6806

DATE SUBMITTED	
MAP & LOT	
HEARING DATE	

**Sewer Main Extension Assessment Hearing Request**

I hereby request an Hearing on the Sewer Main Extension Assessment for my property as I contest: *(Check all that apply)*

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> UNIT CATEGORY | <input type="checkbox"/> FRONTAGE DIMENSION | <input type="checkbox"/> TOTAL ASSESSMENT AMOUNT      |
| <input type="checkbox"/> UNIT CHARGE   | <input type="checkbox"/> AREA DIMENSION     | <input type="checkbox"/> OTHER <i>(Explain below)</i> |

I was provided and have reviewed Town Code Title 13 and Maine statutes pertinent to this request; and, the August 15, 2016, Town-adopted Assessment Plan. My request is based on the following:

TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	
TITLE		CHAPTER		SECTION						PAGE	

**IN ORDER FOR A REQUEST TO BE DETERMINED COMPLETE AND SCHEDULED FOR A HEARING  
APPLICATION FORMS MUST BE COMPLETE and 10 SETS OF DOCUMENTATION PROVIDED**

<b>PROPERTY INFORMATION (as shown in the adopted Plan )</b>					
ADDRESS					
MAP		LOT #		LOT SIZE (sq. ft.)	
STREET FRONTAGE			TOWN TAX RECORD ACCOUNT #:		
<i>(ATTACH COPY)</i>					
<b>PROPERTY OWNER: I have right, title or interest in the affected property, or issue, as shown by:</b>					
NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

**NOTE:** You may have an attorney represent you, but such representation is not necessary. You may also be represented by a designated agent (e.g. family member, neighbor, engineer, contractor) as you so desire.

<b>APPLICANT (if different) I am an agent of the applicant with standing, OR, I am an aggrieved party in the subject property, or issue, as shown by:</b>					
NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

To the best of my knowledge, all information submitted on and with this application is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print Name)*



STATEMENTS:

I request this hearing because I have a problem in regard to a matter of Town Code Title 13, Public Services and the 2016 adopted Assessment Plan: (Section, Title, Page No.) \_\_\_\_\_

The Assessment Plan data/decision I object to is [Include formal documents related to the matter ]:

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I object to the Assessment for the following reason(s):

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Unlike others in the community, I will suffer a particularized injury in this matter if not resolved in my favor. I am adversely and directly affected by:

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What relief is requested and why should the request be granted?

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**Additional Information**

1. Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief.  
  
[Support with citations(s), of pertinent ordinance(s), deeds, maps, documents, etc. Describe in detail what decision you are appealing; the date on which the decision was made; and, by whom, the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the Panel Board to take in this matter. Also, please indicate how that Panel/Board’s decision will affect you and/or your property. Use extra sheets if necessary and attach them to this application.]
2. A detailed plot plan or diagram must be provided showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic features (wetlands, streams, etc.) of the lot in question. This plot plan should show the detail of any rights-of-way, easements, or other encumbrances. A copy of the Town Property Tax Record must be provided.
3. Blueprints, surveys, photos and other documents may be helpful in explaining your request and should be included.

## EXCERPT from email dated 8/10/16 to Kittery Finance Director from Mark Thompson, Kleinfelder Consultants – Financial Status of Sewer Expansion Project

See email from Gus below. This overall financial summary is up to date as of yesterday. Note that we have carried a \$5,000 allowance for additional "soft costs". I saw an email this morning indicating \$3,400 in additional soft costs to be paid. You may want to increase the allowance to \$10,000.

**The bottom line is the project will finish more than \$200,000 under budget.**

Mark J. Thompson, P.E.  
Kleinfelder  
Office: 617-498-4680  
Cell: 781-520-1943

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Cindy,

Please see the attached fully executed copy of our most recent SRF requisition, which details expenditures to date, and a listing of additional anticipated and known costs to completion below. As you can see, we expect to underrun the \$11,990,025 budget by approximately \$218,000.

<b>Budget amount</b>	\$11,990,025.00
Total to date of last SRF reimbursement request (#9) attached	\$11,565,397.76

<b>Additional known and anticipated costs to completion</b>	
Infrastructure Contract Change Order #4 (septage pumps)	\$5,769.63
Infrastructure Contract Retainage	\$59,864.83
Infrastructure Contract Engineering	\$0.00
Sewer Extension - Traffic Control Flaggers	\$11,000.00
Sewer Extension Contract Retainage	\$117,519.11
Sewer Extension Soft Costs to completion (allowance)	\$5,000.00
Sewer Extension Contract Engineering	\$7,610.00
subtotal	\$206,763.57

Balance (Budget - Total to date - subtotal additional costs)	\$217,863.67
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*Proven Expertise and Integrity*

August 11, 2016

Ms. Carol Granfield  
Interim Town Manager  
Town of Kittery, Maine  
P.O. Box 808  
Kittery, Maine 03904

Dear Carol:

It was great seeing you Tuesday and discussing the various sewer matters with you all. I wanted to take some time and summarize the talking points as I understood them as a result of that meeting.

Sewer understanding:

- On or around February, 2011, the Town received approval from the Maine Department of Economic and Community Development for three TIF Districts. The Town was assisted and guided through this application and approval process by Jensen Baird Gardner & Henry.
- Within the application of TIF District # 3 (one of the three districts) the Town outlined in its proposal a plan to develop some parcels of property (Parcels were identified in the proposal) for a business park.
- Within the application of TIF District # 3, many projects were identified which will result in the creation by the Town of separate "funds" to identify the various projects. These include a development fund, which is identified into two parts, they are:
  - 1) project cost accounts (maintained separately for each developer),
  - 2) development sinking fund.
- Within the application of TIF District # 3, and as part of the development of the District, a list of projects were described of which a sewer expansion was identified.
- On or around June, 2013. The Town passed a referendum question for the issuance of a \$4.4 million dollar general obligation bond for various Town infrastructure needs.
- On or around June, 2013. The Town passed a referendum question for the issuance of a \$7.5 million dollar general obligation bond for the sewer expansion to accommodate TIF District # 3.
- On or around the fall of 2015, the Town received its general obligation bond of approximately \$11.9 million to finance these projects.
- On or around August, 2016, the above mentioned financed projects are substantially completed.
- On or around the fall of 2016, the first payment on the \$11.9 million dollar bond will commence.

As a result of our understanding, the Town desires (and has drafted some various financial scenarios provided to us) a financial plan to accommodate the accounting of all the said projects and methods of repaying the debt service. As a result of preparing these financial scenarios, the Town has concerns over the revenue streams needed to continue to fund its everyday sewer operations and newly issued debt service to finance the above projects.

As we stated in that meeting, and with the creation of TIF District # 3, the Town really needs to exercise great caution for the accounting of all the TIF related projects. Having said that, we believe the budget scenarios presented to us will need to be reformatted in a way to accommodate that. We look forward to providing you that assistance on this matter and also in reviewing the accuracy of the numbers within the scenarios provided to us.

The question was posed to us on the reasonableness of the numbers outlined in the three scenarios and whether or not the financial needs will be met by the Town. As I stated in that meeting as it relates to my understanding on this matter, and with the issuance of that bond last fall, my answer is yes, and that some scenario needs to be provided to the Town which best suits continued payment of financial obligations on the sewer department and TIF District # 3. The scenario we all agree at the end of this exercise, may look different than the ones provided to us.

We understand this matter is of high importance because the Town is currently, and within each of its scenarios, considering a necessary revenue stream by non TIF district parcels affected by this matter. It appears the Town has some discretion in the calculation of this revenue stream and wants to make sure that the revenue stream provided by the non TIF District parcels is fair. The Town also needs to insure that all of its financial obligations are met in the most prudent way.

May I suggest the Town involve Jensen Baird Gardner & Henry on this matter because of the creation of TIF District # 3 and its relationship to this matter and the simple fact they were very involved in the birth of these TIF's. I have had some initial conversation with them on this matter as I said at that meeting based on direction by you, but believe they can be of greater help making sure the Town has covered all related areas of this matter so the Town can make the best business decisions available and be fair and responsible to all parties affected by this.

Please let me know if you have any questions on this letter. You can reach me at (800) 300-7708.

Very Best,



Ron H.R. Smith, C.P.A., C.F.E.